

APPENDIX

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1975

No. 75 - 804

JOY A. FARMER, Special
Administrator of the Estate
of Richard T. Hill,

Plaintiff-Petitioner,

vs.

UNITED BROTHERHOOD OF
CARPENTERS AND JOINERS
OF AMERICA, LOCAL 25,
et al.,

Defendants-Respondents.

ON WRIT OF CERTIORARI TO THE
CALIFORNIA COURT OF APPEAL
SECOND APPELLATE DISTRICT,
DIVISION FIVE

PETITION FOR CERTIORARI
Filed December 5, 1975

CERTIORARI GRANTED
January 26, 1976

[RT 593]

Q. Mr. Hill, on June 13th, 1967, did you

[RT 594] *

file any * charges against any business agent?

A. I did. I filed several such.

Q. Now, with respect to the document
you have in front of you, can you tell me, is that
a copy of any of the charges that you had filed?

A. This is a copy of the original charge
that was filed.

Q. Against whom?

A. Against Joseph Wilk, in this instance.
He was one of the business agents.

Q. What did you charge Joseph Wilk with
having done to you?

A. I told them that the uniform dispatching
policy of the L. A. District Council is being
bypassed by the method of dispatching carpenters
under steward's requests, according to section
43 A of the By Laws of the L. A. District Council.

Q. Now, was there a specific person who
was involved who was dispatched as a steward?

A. Yes. The name was John Capello.

Q. And did you file that complaint with the District Council?

A. I did.

[RT 596]

Q. BY MR. HOBART: Mr. Hill, after you had filed your charge about this illegal dispatch that you said occurred on June 12, 1967, did you receive any information as to its processing from the District Council of Carpenters?

A. I did.

Q. What did you receive, or what did you hear?

A. Well, after a period of about a week went by, they sent a letter back by mail, "The executive board has heard these charges and has voted to refuse to process." That's the executive board of the District Council.

Q. I see. Is that the executive board that Mr. McCulloch is the chairman of?

A. He's the chairman. Jimmy Keen also sits on that executive board from Local 25.

Q. Can you tell by those documents, Mr. Hill, as to the date of the dispatch that you complained of, what date that dispatch occurred?

I would suggest it was on 6-12.

A. It says here the event occurred on June 12, 1967. The job was Weymouth & Crowell, Adams and Western.

Q. Do you recall what it was, Mr. Hill, that caused you to believe that was an illegal dispatch?

[RT 597]

A. Well, all the men, myself included, was there waiting for a job, and in order to keep from handing the job out through the window, he decided to run this guy out as a steward, and the men were complaining.

The complaint said, "Received many complaints from members on dispatching, so I checked this one out myself with four witnesses," is what the original longhand complaint reads.

MR. HOBART: Your Honor, for the record, the name of John Capello appears on page 3, line 4 of the out-of-work lists for the week of June 5, 1967.

The following Monday was apparently June 12, 1967, and presumably, the dispatches went out before the June 12, 1967 list was compiled, and Mr. Capello's name does not appear on the June 12 list.

Q. Now, Mr. Hill, yesterday you mentioned that you had attempted for a second time to get a request from that Dinwiddie-Simpson job -- By the way, did you ever work for the Simpson Company before?

A. I did. I built Crocker Bank with them.

Q. Built what?

A. Pardon me, Occidental Towers down there.

Q. That's the William Simpson Company?

A. That's correct; and Dinwiddie, I also worked for.

Q. You had also worked for Dinwiddie?

A. I did.

Q. Now, showing you a copy of the charge sheet that we have already talked about

[RT 598] *

here as plaintiff's 11, is the * document which I have now shown you, is that a charge sheet for a complaint against a member of Local 25?

A. Yes, it was.

Q. And who was the person the complaint was made against?

A. E. G. Daley.

Q. And what were the charges made by you against Mr. Daley on June 19, 1967?

A. I charged him with with the violation of section 55 A, paragraph 5, subsection 13, "Specifically going down to the Simpson-Dinwiddie job and talking against the vice president. Specifically describe the offense. I was promised a request order on 6-16-67. This offense occurred on 6-16-67 at the Simpson-Dinwiddie construction site, 6th and Hope."

Q. And did you indicate who should be notified as witnesses in that matter?

A. I did.

Q. What names did you put down on the form?

A. I said, "Please notify Larry Buetner, Foreman." I also listed a Fred Coukos, the general foreman, which the girl in the office, when I filed the charges, scratched out, and she included Ray Wallace on it.

Q. Now, was that complaint ever processed -- strike that.

Did you ever receive any information from the District Council whether the complaint was processed or not -- or accepted or not?

A. I did.

[RT 599]

Q. And what was the result of the District Council of Carpenters?

A. Same as the first letter, "Executive board voted not to process the charges."

[RT 617]

Q. Now, Mr. Hill, do you recall at that time whether you were given any special consideration for having returned from the illness rolls by Mr. Daley or Mr. Wilk or Mr. Fenwick at that time?

A. Well, no. They just said, "You have to go out there and sign the bottom of the list, that's all, just like the rest of them."

There had been a practice in that local, whenever a carpenter came off a disability lasting six months like that, they'd get a little preference treatment; but "Put your name on the bottom."

Q. Did you ask anybody for any special preference?

A. I asked Blackie, Ben, and Joe, all three of them.

Q. What did you say?

A. I said, "I've been out of work a long time."

Q. What did you say to Blackie?

A. I said, "Blackie, I've been out of work for a long time. I've got to go back to work,

[RT 618] *

that's all there is * to it."

"Get lost, get lost. Sign the list."

Q. Did you go to any other person to try to get a job?

A. I went to Joe and I went to Ben, all three of them.

Q. What did Ben Fenwick say to you?

A. "Well, Blackie's the head man. If Blackie won't give you a job, I can't give you no job."

Q. What did Joe Wilk say to you?

A. He said, "Well, I can't do nothing. That's it, forget it. Blackie's running the show

here."

Q. Did you go to anybody else after they had turned you down?

A. I went over to the District Council, to Gordon McCulloch.

Q. And why would you have gone to Mr. Culloch?

A. Well, it was obvious that either the three of them wasn't going to give me a job, period, and on page 10, after being out of work for six months, that would mean -- in January -- in July I would still be sitting there, and they don't just keep that monkey business going --

Q. Did you go and discuss this matter with Mr. McCulloch?

A. At great length, I did.

Q. Did Mr. McCulloch assign you to a job?

A. He said, "You sit still here, I'll get you a job. You sit still. Of course, I'll have to tell them where I'm sending you.

[RT 619]

He called over there. He said, "I'm going to -- I'm sending Dick Hill down to the Vinnell Corporation."

Q. I'm showing you a pink copy of a referral slip that was handed to you to take to

Vinnell?

A. Yes, that was handed to me by McCulloch, in McCulloch's office.

Q. In looking at that document, do you recognize the signature at the bottom of the work referral?

A. It's signed by McCulloch. I see his name. He signed it.

Q. Do you recognize that as being his signature?

A. Yes. I have an autograph on the party there, the fiftieth party of the carpenters, in which he signed the book for me, and it's compared -- that's his signature.

[RT 627]

DANA HOBART,

called as a witness by the plaintiff, having been sworn, testified as follows:

DIRECT EXAMINATION

BY MR. HOBART:

Q. Mr. Hobart, in late 1969 or early 1970, did you go to Local 25 to review some of their records pertaining to this case?

[RT 628]

A. Yes, I did.

Q. Can you be more specific as to the date?

A. No, at this time I'm not sure whether the date was in late '69 or early 1970.

Q. Who was present when you went to Local 25 to review certain documents?

A. Benjamin Fenwick, James Keen, Elizabeth Carson; at least those three were present.

Q. On that date did you review documents for the month of March 1968?

A. Yes, I did.

Q. What documents did you review?

A. I dictated into a machine all of the white slips that were available for March of 1968.

I also dictated into the machine all of the requests, or orange slips, that were presented to me at that time.

I also dictated into the machine miscellaneous-type slips which were employer requests.

Q. Has your dictation been recorded in writing?

A. Yes, it has.

Q. Is that with respect to the white slips?

A. Yes, it is.

Q. Is that with respect to the requests?

A. Yes, it is.

Q. Did you dictate the work referrals that were available for that time, for March of 1968?

A. No, I photocopied all of the work

[RT 629] *

referrals for * the month of March 1968.

Q. Did you perform a similar inspection, photocopying and listing of the various documents, for other months in 1968?

A. Yes, for all of the months in 1968.

Q. With respect to March of 1968, do you -- strike that.

With respect to March of 1968, is the list of the white slips that you have before you

complete, to the best of your knowledge?

A. To the best of my knowledge, all of the white slips I saw were dictated into the machine, and to the best of my knowledge, my secretary took from that machine, and typed on this white slip that I have in front of me, all of the white slips that existed.

Q. Is the same true with respect to the orange, or request slips?

A. Yes, the same is true with respect to them.

Q. With respect to the date of March 7, 1968, was there a white slip from the Ruane Corporation, or referring to the Ruane Corporation?

THE COURT: How did you spell that?

MR. HOBART: R-u-a-n-e.

Q. What did the white slip state, or request, pursuant to its order?

A. The Ruane Corporation requests three form high, are the words that I have.

Q. Did you observe if there was any
[RT 630]*
request, any * orange request, or any

miscellaneous-type request from the Ruane Corporation for that job of March 7, 1968?

A. In my list of requests, which total somewhere near 75, I would guess, the Ruane Corporation made no request for any employee for March 7, 1968.

Mr record indicates that the Ruane Corporation made a request on March 22, 1968 for a Mr. Kaeser, or something of that nature; but there was no request from the Ruane Corporation for early March, or anywhere near the period of March 7, 1968.

RICHARD T. HILL,

the plaintiff herein, recalled as a witness in his own behalf, having been sworn, resumed the stand and testified further as follows:

DIRECT EXAMINATION (Resumed)

BY MR. HOBART:

Q. Mr. Hill, I'm showing you a yellow copy of a work referral to the Ruane job dated March 7, 1968.

A. That's correct.

Q. At that time you were on page 3, line 1; is that correct?

[RT 631]

A. That's correct.

Q. Now, Mr. Hill, I'm showing you photocopies of two other work referrals to the Ruane job, dated March 7, 1968 -- By the way, Mr. Hill, what is the number on your dispatch?

A. It's numbered B8538.

Q. Now, I'll show you a photocopy of work referral B8539 and B8542. B8539 is a dispatch for Mr. W. H. Cook, and B8542 is a dispatch for Art Mascott; is that correct?

A. That's correct.

Q. All right. Now, Mr. Hill, when you were dispatched to that job, did those gentlemen also go to that job?

A. Yes, they did. According to the work referral, they were there.

Q. Well, do you know Mr. Cook?

A. I know him by sight, yes.

Q. And Mr. Mascott?

A. By sight, yes.

Q. And were they both on the job?

A. Oh, yes, they were both on the job working.

MR. HOBART: Now, your Honor, the record should reflect that on the lists of March 4, 1968, Art Mascott appears at page 4, line 19.

The record should also reflect that there is no notation next to Mr. Mascott's name to indicate he received that dispatch, although there is such a notation for Mr. Hill and for others higher on the list.

The record should also reflect, your

[RT 632] *

Honor, that * for the sheet of March 4, 1968, unless my cursory -- more than cursory -- examination is in error, the name of W. H. Cook, the second man dispatched, was not on the lists.

Now, your Honor, I would ask that the out-of-work list for March 4, 1968, be received as plaintiff's next in order, and if I may -- I was going to staple the others. I would ask your Honor --

THE COURT: Here's the stapler, if you want it.

MR. HOBART: Oh, thank you.

I would ask that the out-of-work sheets for March 4, 1968 be admitted as plaintiff's next in order, and the three work referrals, the tow photocopies and Mr. Hill's copy --

THE COURT: Just a minute, I'm getting this down. March 4, '68 --

MR. HOBART: Yes, sir.

THE COURT: -- out-of-work sheet, and you want to put that in as 18?

MR. HOBART: Yes, your Honor.

THE COURT: All right. Let me have that, and I will hand it to the clerk. They have been stapled.

MR. HOBART: Those are stapled.

THE COURT: Yes, that's 18.

MR. HOBART: I would next ask your Honor that the three work referrals for this Ruane job, including Mr. Hill's, be marked plaintiff's 19 and admitted into evidence.

THE COURT: They are all signed by Daley, aren't they?

MR. HOBART: Yes, your Honor, all

[RT 633] *

three of those work * referrals are signed by E. G. Daley.

THE COURT: All right, they will be 19.

Q. BY MR. HOBART: Mr. Hill, on the reverse side of your copy of the referral sending you out to the Ruane Corporation, there are certain notations.

Can you tell me, first, inasmuch as there are two colors of ink, when each of those notations were made, or how close to the date of the dispatch of March 7, 1968?

A. Well, I can tell you one thing, these notations were probably made the same day, whenever. Just a case of running out of ink of one pen, is what I am afraid of, two different colors of ink; so they were probably made either the same day, or I might have just grabbed another pen out of my overalls. There's two different inks on there.

Q. Mr. Hill, with respect to the second half of the note, it says --

A. It's all in my handwriting.

Q. All right. "Art Mascott, a carpenter dispatched to the same job I was is still

working" --

A. -- "on the job," yes.

Q. -- "on the job."

Was he still working when you were terminated off that job?

A. Oh, yes, yes.

A. All right. When you were terminated from that job, was Mr. Cook still working, if you recall?

There's no notation there. Do you recall, or do you not recall?

[RT 634]

A. I wouldn't be able to swear to it. I knew Art by face. I knew Walter just casually. Art was working close to me, that's why I knew he was there. We was probably both working on the same scaffold as the other when the man came and gave me my check, and he didn't give Art any check; therefore, I knew he was still working.

Q. Mr. Hill, according to the records of the Carpenters Health & Welfare, you worked 35 hours on the Ruane Corporation job. Now, does that match with your own independent recollection of --

A. That sounds about right. Might have it here --

Q. Now, Mr. Hill, to your knowledge -- that is, in other words, something you have seen yourself -- has Art Mascott ever campaigned affirmatively for Mr. Daley? Has he done anything you can say you saw, as far as campaigning for E. G. Daley for office, something of that nature?

MR. GEFFNER: Your Honor, I object. He's asking for conclusions, also.

THE COURT: I think, yes, campaign is a kind of a loose conclusionary word.

Q. BY MR. HOBART: To your knowledge, did you ever see Mr. Art Mascott pass out any material -- campaign literature, that is -- for offices within the union, bearing Mr. Daley's name on it?

MR. GEFFNER: Your Honor, I object. He's leading the witness.

He can testify as to what he saw, if it's relevant, and I can make a proper objection. He's leading.

[RT 635]

MR. HOBART: I'm not leading. I asked him if he ever saw anything.

THE COURT: Well, I guess he can ask him if he ever saw him with "Vote for Daley" leaflets.

Q. BY MR. HOBART: Did you, Mr. Hill?

A. Well, your Honor, this man was a favorite of Blackie Daley's, and I did see him passing out stuff around the hall, on the sidewalk outside the hall.

MR. GEFFNER: Your Honor, I move to strike the portion that "He's a favorite."

THE COURT: All right, that may go out.

MR. HOBART: Your Honor, again we have here the Health & Welfare records, pursuant to subpoena, for Mr. Art Mascott, and with respect to -- well, if I can get a scissor, maybe that would help me here.

These are photocopies, your Honor, with several -- or two people on the same page, and I am just eliminating those that are not Mr. Mascott's.

THE COURT: What dates are they?

MR. HOBART: Yes, your Honor. These cover his work period from January 1967 through April of 1969; and again, your Honor, we have stipulated to the foundational showing on these documents.

THE COURT: All right, the Mascott records H & W --

MR. HOBART: Yes, your Honor, I'd offer them next.

THE COURT: -- Health & Welfare Trust will be received as 20.

MR. HOBART: Thank you, your Honor.

[RT 636]

Your Honor, I'd like the record to reflect that Mr. Mascott's Health & Welfare records indicate that he worked on the Ruane Corporation job starting -- it does not give the exact date in March. I think we have already shown that -- in March, April, and May, and in the month of March he worked 123 hours; the month of April he worked 136 hours; the month of May he worked 184 hours.

Q. Mr. Hill, after you worked your 35 hours, did you have to go to the bottom of the list again, or were you able to get some place else on that list?

A. No, I was probably right back at the bottom of the list. If you work 16 hours, you've gotta go to the bottom of the list.

[RT 638]

Q. Mr. Hill, do you have a recollection as to whether you refused -- or do you recall the job that that's referring to? There's something that looks like it might be R. J. Daum. I can't be positive about that.

A. I'm not familiar with the contractor, but the steel form I recall, yes.

Q. Now, the steel-form job, when it says "Refused steel form," do you pertain to the same type of work you testified to yesterday?

A. Exactly.

Q. Steel form being the heavy pans, and so forth?

A. That's right.

Q. From the time you turned down the steel-form job in March of 1967 -- that was the one where the incident with the Department of Employment occurred, wasn't it?

[RT 639]

A. That's correct.

Q. From the time you turned down that March of 1967 steel-form job, up to this date in April of 1968, had you advised these business agents that you were now competent and able to do steel form?

A. No, they know that. They knew that, sure.

Q. Listen to my question.

A. I had advised them, yes.

Q. That you could do steel form?

A. That I could not do that.

Q. You told them that in March, didn't you? You told them that in March of 1967?

A. That's correct.

Q. All right. Now, from March 1967 to April of 1968, did you ever tell them anything different?

A. No.

Q. Did you ever tell them that you could or would take steel-form work?

A. No.

Q. Now, Mr. Hill, you refused that job, according to that notation. Is that what you did do? Did you refuse the steel-form job?

A. That's what he's got noted in the book there. I don't know what happened. I don't even recall the job, but that's what he's got noted.

Q. Mr. Hill, it has a stamp there. It has the stamp of Thursday; is that right?

A. That's right.

[RT 640]

Q. Now, on that, was the policy -- how many jobs, as you understand the policy, and as you understood the rules and regulations, how many jobs could a man turn down before he was knocked off that list to the bottom of the list?

A. Well, under the uniform dispatching policy set up by the District Council, it says an unemployed carpenter may refuse two offers of suitable employment, plus either be working 16 hours, to be dropped to the back of the list. The question is, what constitutes suitable employment.

Q. In your mind --

A. Steel form wasn't suitable employment. I wasn't registered, wasn't qualified.

Q. At any rate, were you offered any other job besides the steel-form job?

A. Not that I recall.

Q. Now, Mr. Hill, when you came back, when you signed the list on April 15th -- that would be the following week -- can you tell us on the April 15, 1968 sheet what page and what

line your name appears on now?

A. Well, my name appears on page 9, and the fifth -- or the fourth name down from the top.

Q. What does it say? What did you write next to your name?

A. And it says with my name, and I signed the book under protest.

Q. You wrote the words "Under protest"?

A. Yes, in parentheses.

Q. Mr. Hill, the previous week, April 8,

[RT 641] *

you were on page 4. On April 15th, you are on page 9. Do you have any estimate of time, Mr. Hill, how many weeks it takes you to move from page 9 up to page 4?

A. I wouldn't know that offhand. I wouldn't know.

Q. All right, let's --

A. Three or four weeks, I guess.

Q. Mr. Hill, on the week of March 18, 1968, you were on page 9, as you have already testified --

A. I see.

Q. -- is that right?

A. Yes.

Q. Now, in the week of March 25th you are on page 7, as you have testified; on the week of April 1st you are on page 5, I think -- yes, page 5.

THE COURT: Then on the 8th he's on page 4, I've got.

Q. BY MR. HOBART: So it took you four weeks to go from page 9 to page 4, and now you were back on page 9 again?

A. That sounds about right. Sounds about right.

Q. All right.

Now, on the week of April 22 you were on page 5. I assume there must not have been very many people out of work.

A. Would you like me to explain the "Under protest"?

Q. Yes, tell us why you did that.

A. Number one, I complained that the then-incumbent, E. G. Daley, that he had no right to drop me off the list, since I only had

job. You can't be put to the back of the list for refusing one job offer.

[RT 642]

And number two, I told him I didn't consider it was suitable employment; and I told him, further, I was going to do it.

I go up looking for a job, and there's a big red mark scratch through your name, and he says, "You're on the back of the list."

Q. What did he say to you when you told him you were going to sign under protest?

A. That was done at the rollcall in the day room. He could care less. "Sign it, I don't care if you ever go to work." He could care less.

Q. Now, going on, then, to the following week of April 22, 1968, on April 22 you appear on page 5, line 14; is that correct?

A. That's correct.

[RT 644]

Q. Did you, at the time of your dispatch make a notation concerning your dispatch on May 1, 1968?

A. I did.

Q. And is that the white piece of paper that you now have in front of you?

A. It is.

Q. All right. Would you tell the court

[RT 645] *

where you were * dispatched -- first tell the court under what dispatch number, what referral number, you were dispatched.

A. I was given referral No. D2118.

Q. And the date of that dispatch?

A. Was 5/1/68.

Q. And where were you dispatched to; to what job?

A. 1030 North Alpine Street. That was the --

Q. The name of the employer was who?

A. The William Burke job.

Q. Okay. 1030 Alpine Street?

A. Yes, sir.

Q. Did you take that dispatch when they gave it to you?

A. I did.

Q. And where did you go for your work referral slip?

A. I went out to the jobsite, superintendent's office, first. We're supposed to check in with the timekeeper.

Q. When you got there, was there a job available there for you?

A. Was no job available, period.

Q. Did you talk to the superintendent?

A. I talked to the superintendent.

[RT 646]

Q. And what did you do immediately thereafter?

A. I approached the job steward on the job. When you come out there with a work order, you're supposed to approach the job steward. Otherwise, they can say you didn't report to the job, if the job wasn't -- in other words, like you didn't even go to the job. So he didn't know anything about it.

Q. Did you make any notation what his name was?

A. I don't have it noted down. The work orders will show it -- oh, Bennett Guthrie. That was his name, right there.

Q. And that was part of that notation you made?

A. Yes.

Q. By the way, when did you make that notation?

A. The same day there.

Q. Now, after talking to Mr. Guthrie and the superintendent, you learned that you had been dispatched, what, to a nonexistent job?

A. He didn't call for any men. If there was any job there, the order was full, because the order was null and void.

[RT 651]

Q. Now, Mr. Hill, had you been offered this DeCinces job on May 1, 1968?

A. Had I been offered it?

Q. Yes.

A. No.

MR. HOBART: Now, your Honor, I would ask that plaintiff's 21 for identification be

admitted into evidence.

MR. GEFFNER: May we approach the bench on this?

THE COURT: All right.

(The following proceedings were had at the bench:)

MR. GEFFNER: Your Honor, I object on the grounds of relevancy. There's no tie-in of any act of discrimination against Mr. Hill. There's no showing that all of the records are complete. In fact, the testimony is just to the contrary, the records are actually incomplete; and just simply because -- and whether a carpenter was sent out to a job, and there's no request that appears on the records that are

[RT 652] *

available,* does not establish, or tend to establish any proof regarding Mr. Hill.

Again, we are going to the area of the hiring hall procedures, dispatching procedures, which if we get into any more detail than we are doing -- and I can't hardly keep from emphasizing, but I want the record clear -- this is not for the jury to judge dispatching procedures.

MR. HOBART: Your Honor, first off, we are hardly going into dispatching procedures in great depth. We have not done that. We have

only stuck as it relates to Mr. Hill directly.

The point of this is, there has been testimony by Mr. Scott that it is and has been the policy of this union to offer men their choice of available jobs. Mr. Hill was given a job that did not exist, that took him out of the hiring hall, caused him delay and other troubles, which we will get into later; but under their own testimony he should have been offered all available jobs, which means this job that Mr. Rodenfels got should have been offered to him so he could take his choice of jobs.

Mr. Rodenfels was behind Mr. Hill on the list, and obviously, by failing to do what they said the policy was, it was an act of discrimination against him.

I would assume it's presumable that these men knew they were sending him out to a job that did not exist for him, and he had to come right back to the hall.

Now, with respect to an additional point, when he says these records are incomplete, I hereby assert to this court that I will make an

[RT 653] *

offer of proof by reading from the * deposition of Fenwick, who when I got out to that hall we took his deposition as I went through those records, and he testified in that deposition that all --

THE COURT: By defendant you mean who?

MR. HOBART: Defendant Fenwick. He testified that all of the requests for 1968 were there, and available for me to look at; and I did look at them all and I have already introduced into evidence my own testimony that I examined well over a hundred of them, and there was no such request for Mr. Rodenfels; and if there was no such request of Mr. Rodenfels, then it was an act of discrimination in not giving that job to Mr. Hill, instead of sending him out on a goose chase.

THE COURT: Well, I will let it in. That will be 21.

[RT 654]

MR. HOBART: Your Honor, I will make an offer of proof I think will be accepted, and that is that Mr. Rodenfels' name does not appear on the out-of-work sheets from the time he received that dispatch on May 1 until the date of May 27, 1968.

[RT 655]

Q. Now, Mr. Hill -- just a minute. Is

[RT 656] *

this a copy of * a work referral that you had on May 13, 1968?

A. That's correct.

Q. And tell us the date of the work referral, what job you were sent to -- and apparently there's no signature on it, unless you recall who sent you out.

Just tell us the name of the job he sent you to.

A. I was sent to Weymouth & Crowell.

Q. They sent you to that job?

A. On Figueroa and Adams.

Q. What was the name of the building, or anything you could identify?

A. I remember the job. It was a little remodel with the Auto Club.

Q. It was a remodeling job with the Automobile Club?

A. Yes, just a little -- as a matter of fact, they were putting in the back of the building.

Q. When you went out there did you accept that job or refuse it?

A. I refused the job after talking to the superintendent.

[RT 657]

Q. Mr. Hill, tell us why, in your mind, you refused that job?

A. It was a very short job, and I needed some steady employment. I had been out of work for a long time. Didn't look like it was over one or two days.

Q. And did you sign again on the out-of-work list for the following week; that is, the week of May 13, 1968, did you sign on page 3?

A. Page 3, that's correct.

Q. At line 12?

A. That's correct.

Q. Now, Mr. Hill, when you signed that sheet, did you have any conversation with Mr. E. G. Daley?

A. Oh, it was to the effect that he was sending me out on these short jobs, and I was registered for class A high-rise jobs. I wasn't actually registered for remodel work.

Q. Did the business agents make any notation on the sheet of May 13, next to your name:

A. Well, he's got down there -- oh, yes,

[RT 658] *

Speer, Inc.*, 234 East Avenue 33.

Q. All right. Now, do you see the words "Refused, E. G. D. "?

A. Yes, Daley.

Q. Do you see those initials there, and the words?

A. Yes, sir.

Q. Do you see the words, "Refused, B. F. "?

A. That's Ben Fenwick.

Q. And do you see "Refused Work," with the initials --

A. J. W. ; Wilk.

Q. Joseph Wilk.

Those were all three of the business agents at that time?

A. All the same day.

Q. Had you still signed the book on May 13, 1968 under protest?

A. I did.

Q. All right. Now, do you recall that Speer job? In other words, did you go out on that Speer job, and did you refuse that job?

A. I went out on it. I took a work referral slip. I took the dispatch to him.

Q. You took the dispatch?

A. Yes. I didn't know what kind of a job it was. In other words, I wasn't even too familiar with the neighborhood.

Q. So they gave you the job, and you went to the job?

A. I went to the job.

[RT 659]

As a matter of fact, there was another carpenter went there with me.

Q. All right. Did you get a -- is this the work referral to that job?

A. That's the work referral to that job.

Q. And that's No. D2099?

A. That's correct.

Q. All right.

When you got there, did you observe the nature of the work that was to be done?

A. Yes. It was about -- didn't look like it was two days, about a day and a half, on a little retaining wall, and it was just to run a garage driveway behind the Salvation Army Home for Women over there on East 33rd Street, on the east part of town.

And I had a carpenter with me --

Q. Who was with you?

A. J. Kabat.

Q. Had he also been assigned to that job?

A. He had been dispatched with me the same day, and it was a two-man job, and he said, "Look, I'm not going to take this job."

Q. Did you take the job?

A. I said, "Kabat, I can't do it alone, so if you don't take it, I'll have to go back."

So there wasn't anybody there to report to. There was usually a superintendent or foreman, or something. Wasn't anybody there,

[RT 660] *

so we both took it back to the dispatcher * in the hall, explained the situation what was.

Q. You made a notation on it it was "Two days on retaining wall (Refused)"?

A. Yes, day and a half, two days, on a retaining wall.

Q. Well, you didn't say a day and a half, you said two days?

A. Two days.

[RT 662]

Q. MR. HOBART: Now, Mr. Hill, going to the week of May 20, 1968, do you see your signature on line 20 on page 2?

A. I do.

Q. You see a red line drawn through that, do you not?

A. I do.

Q. And do you see the initials "E. G. D.", with the word "Refused" under it?

A. That's correct.

Q. Do you see initials by J. Wilk, with the word "Refused" after it?

A. That's correct.

Q. All right.

Now, Mr. Hill, were you, on May 20th, offered this particular job? Do you have any recollection of being offered a job at that time?

A. I don't know.

Q. All right. Then, Mr. Hill, the striking of your name off of this list in red pencil does not indicate that you went to work at that time; is that right?

A. That's correct.

Q. And again, as you are not sure,

[RT 663] *

referring to the * Health & Welfare Trust Department for Southern California for the month of May 1968, it shows that you worked no hours, doesn't it?

A. I didn't work, that's right.

Q. So you weren't dispatched to some job there, and that's why your name was lined out?

A. That's right.

Q. All right.

Now, Mr. Hill, for the week following May 27, 1968, tell me if you see your name anywhere on the list that week. Look down this sheet, and I will look with you.

A. No, it's not on there.

Q. All right. Now, Mr. Hill, do you recall the incident at all when you were stricken off the list on May 20, 1968? Do you have any recollection of that at all?

A. No, I don't.

Q. Okay. At any rate, the following week, May 27th, you had not signed the list?

A. That's correct.

Q. Were you out of town, or gone, or anything like that?

A. No, I was probably laying home, sick and disgusted.

Q. All right.

Then the following week, June 3, 1968, do you find yourself on the out-of-work lists on page 6, line 21?

A. That's right.

Q. And did you make any notations as to your entry at that time?

[RT 664]

A. "Under protest."

Q. Now, Mr. Hill, did you stay on the out-of-work lists, again, moving your way up to the top?

Do you see your name on the list for July 1, 1968?

A. I do.

Q. What page?

A. That's page 3, about seven names down.

Q. Seventh line?

A. Yes.

Q. Had you made any notation, still, when you had signed?

A. "Under protest."

Q. Now, off the sheets of May 1, -- or July 1, 1968, had you received a dispatch?

A. It shows a dispatch to Progressive Transportation, 3455 Wilshire Boulevard.

Q. And according to the Health & Welfare records, you were dispatched to Progressive Transportation Company in July of 1968; is that correct?

A. That's correct.

Q. All right. Now, Mr. Hill, from the time you signed those sheets on April 8th -- from the time in April, the week of April 8th, when you had refused that steel-form job, did you receive one day of work between April, to your dispatch in July to Progressive Transportation?

A. I don't think so.

I can tell you the reason this here, now. It's fresh in my mind now.

[RT 665]

Q. What was that?

A. This July 1, I don't think Mr. Daley and Mr. Wilk was any longer in office. They were voted out of office in June. I believe that's the reason.

[RT 666]

Q. When was the first time you had reference to those elections with him, in a

conversation with him, or about him?

A. It was in the year of '67, the early part, because I told him I was going to do my utmost to see that him and Wilk and them other corrupt politicians was thrown clean out of office. I was just going to do what I could.

Q. Did you call Mr. Daley corrupt? Did you tell him that's what he was?

A. I told him he was a big drunken fool, and he was a disgrace to the labor movement. I told him to his face.

Q. What did you tell him you were going to do with reference to his reelection?

A. I said, "Mr. Daley, we're going to spend as much money to take you out of there as it did to put you in there."

Q. On how many different occasions that you talked with him did you have reference to the election of 1968, and what you were going to do? Was that something that occurred commonly, or infrequently, or what?

A. Every time he showed out in the day-room hiring hall, it would be to the effect,

[RT 667] *

"Boys, I want you to meet your * new leader," and he would stagger around, trying to embarrass

me in front of the membership.

Q. Who was he referring to as the new leader?

A. Me. I wasn't running for no business representative. He was talking about me.

Q. Was this as candidate for president, or before that?

A. When I was candidate for president.

Q. Do you recall any specific events, conversations, where you and Mr. Daley discussed the coming election, what you intended to do?

A. Oh, I told him -- you know, I told him, I said, "Blackie," I said, "you know, you're not doing right. You're discriminating against me. You're not running the hiring hall right. You promised you were going to go right, and straighten this thing up when you got in the office. That's why the chap was no longer in the office," and I said, "By God, you're no better than him."

And I even went over to Mr. McCulloch and told him the same thing. He said, "Dick, I know what you are telling me is the truth, but I have to support my business agents." And I told Mr. McCulloch, "I don't have to support them."

[RT 671]

Q. BY MR. HOBART: Now, Mr. Hill, you had taken your case to the National Labor Relations Board concerning that one incident at the Dinwiddie-Simpson job in May; is that correct?

A. That's correct.

Q. Do you recall when it was you filed the charges against the International Brotherhood of Carpenters concerning that act of discrimination?

A. With the International?

Q. When did you file your labor charges?

A. With the National Labor Relations Board?

Q. Yes.

A. In the fall of that year, I believe.

Q. Does the date of October 23 sound correct to you?

A. That's pretty close to it.

THE COURT: That's October 23, 1968?

MR. HOBART: '67, your Honor.

Q. Now, Mr. Hill, do you recall the date that the NLRB hearing examiner made public his findings?

A. That would be -- I believe it was somewhere in January, or the early part of '68.

Q. Does November 12, 1968 sound correct?

A. That's better than a year later, anyway.

Q. You filed it in October, and it was about a year later?

A. About a year later.

Q. November 12, 1968, does that sound correct to you?

[RT 672]

A. Yes.

Q. Did you see a notice or dispatch of some sort that told the Local 25 that it was to publish in a conspicuous place an admission that they had discriminated against you?

A. I have the document right there in the briefcase.

Q. All right. Now, where did you see that document published -- that is, shown -- in the carpenters' hiring hall?

A. Well, it was shown at the financial secretary's window on the glass, which is not any dispatch room in the hiring hall, it's in a little room with the financial secretary.

Q. Did you make any comment about that to any officer of the union?

A. I did, to Jimmy Keen, who was in charge of the window of the financial secretary.

Q. What did you say to him?

A. What did I say to him? I said, "Jimmy, this order by the National Labor Board is supposed to be posted out in the day room, or where the men get their jobs in the dispatch hiring hall, as it states in the order, 'be in a conspicuous place for 60 days.'" I said, "I don't consider this little window in this hallway a conspicuous place," because nobody would go in there. Some of the members mailed their dues in there. Just any number of members that wouldn't even go in there.

Q. And did he place it in a more conspicuous place after you made that request?

A. No, he didn't.

Q. And what did you do next?

[RT 673]

A. Well, then I went on down to the government attorney that was handling the case down there before the National Labor Board, and I had a talk with him, and asked him if that was compliance, as far as he was concerned.

Q. And did you ever see a letter from the National Labor Relations Board to the union concerning where they were supposed to post that document?

A. I did.

Q. Where did you see this letter?

A. On the desk of Mr Domnitz.

Q. D-o-m-n-i-t-z?

A. That's correct.

Q. Did you ever see that letter at the union?

A. Well, I don't see their mail, but it's obvious they got it.

Q. Well, whether it's obvious or not --

A. No.

Q. Did you later see the notice from its position to a more conspicuous location?

A. Yes, it was changed within a period of, oh, a week or two.

Q. Is this a copy of the document that was published, that is, posted out on the union walls in November of 1968?

A. Yes, only it was signed by the president, Everette Trimble; had his signature on it, Everette Trimble. This is a copy of it.

Q. The only difference on this is that the one that was posted in the union had --

[RT 674]

A. It had his signature, yes, Everette Trimble. He signed it on the bottom.

MR. HOBART: All right.

Your Honor, I would ask this document be admitted as plaintiff's next in order.

THE COURT: All right, 25.

Q. BY MR. HOBART: Now, Mr. Hill, did any officer of the union, Local 25 or District Council, did any one of them ever make any comments to you regarding your going to the NLRB, or regarding the fact that the union had to admit that it had discriminated against you?

A. Well, there was two that I can recall.

Q. All right. Who made the first comment?

A. Gordon McCulloch, for one.

Q. About when did that occur, if you can recall the date?

A. At a board meeting when he read the original file. When he first read the original notice, we was at a board meeting.

Q. That would be back in October or November 1967?

A. That's correct.

Q. What did Mr. McCulloch say to you?

A. We were sitting at the board table there. This was a special -- some kind of a meeting. I don't recall what it was; but, however, he was there, and I was in my vice president's chair, and he said, "Brother Hill, I got a piece of paper I want you to see." And I never got up from the vice president's chair, because he wasn't a member of our board.

So he walks over to the vice president's chair and handed me the paper, and I took the paper and looked at it, and it was a copy of the original charge with the National Labor Board, and I said, "Well, I knew that, Mr. McCulloch. I have already seen it."

Q. Did he say anything to you at that time; anything more than that?

A. When the board meeting broke up he said, "Dick Hill, I'll beat your goddamn ass any way you go."

Q. You said there were two references. When was the second one?

A. The second reference was about 30 days or so later. An agent from the District Council came over -- I believe it was a roll, because Russell Auten was the agent, and I believe it was a roll call gathering when there was 250 men meeting, waiting to sign the roll call, if my -- and he got up on the podium, and he said, "I want you brothers to know that there's a brother that ran down to the National Labor Relations Board, and there's no brother that's going to extract money from this union and stay in it."

I thought he was kind of out of line.

Q. That was Mr. Auten?

A. He was McCul' ch's agent.

Q. Who was he?

A. He was a field agent hired for the District Council to help him.

[RT 1027]

Q BY MR. HOBART: Mr. Hill, you indicated yesterday that you could name other political allies, that is, people who worked diligently for Daley, Fenwick, and/or Wilk, and who had favored treatment. Can you give us the names of a few such people as those?

A I can.

Q All right.

A Tony Fitch, Lou Altman was another --

Q Just go right along. Just do it quickly.

[RT 1028]

A Kenneth Scott, Ben Stahovich, Everet Trimble, John Jirash, Art Dooley, Art Rosales, Quinton Willis, Wayne Nelson, Adolph Lisberg, Ernie Lumas, Marion Chavez, and Rudy Brown.

[RT 1035]

MR. GEFFNER: That was at 9:50 a.m., approximately.

The last point, I would like at this time to make a motion to strike the testimony of Mr. Hill that answered the question who were the political allies of Mr. Daley who received favored treatment.

I didn't object at the time, because I was going under the assumption there would be some tie-in in terms of specific acts that would relate to Mr. Hill.

Also, the jury has been subject to a lot of objections, and I thought it would be more appropriate to make a motion to strike now.

In looking, I have the suspicion -- Mr. Hobart put it last week about this testimony -- that Mr. Hobart intends to tie in the testimony of Mr. Hill -- which is, of course, a conclusion. Political allies would be a conclusion -- but merely on the fact of how many hours these 15 or so individuals worked during a prescribed period of time, and if that is the tie-in, then I want at this time to make an objection and ask the court to instruct Mr. Hobart not to continue with that line of proof, outside the jury's presence.

If that's all, then we are faced with the situation of trying to show how many hours 1700 members of the local union worked.

[RT 1036]

THE COURT: Well, I had assumed that maybe you were going to show that these were sort of teachers' pets.

MR. HOBART: That's right, your Honor.

THE COURT: Are you going to point that out in the record?

MR. HOBART: Yes, your Honor. These are the teachers' pets, and I might also point out that yesterday Mr. Geffner, taking the issue that Mr. Hill had indicated that Mr. Art Mascott was a political ally, and we did lay a foundation, Mr. Geffner then went to the health and welfare records -- he, not I -- and he introduced it into evidence, Mr. Mascott's, to show how little this teacher's pet worked during the period of time.

Now, he did it, and he's opened the door, which wouldn't otherwise have been opened, but which I think would be no problem, anyway.

But irrespective of that, Mr. Hill has said, now here are the people that are closest to Daley, among the very closest to Daley and Fenwick and Wilk, and to show what his complaints were.

Do you remember he testified that during 1967 he counted numerous illegal dispatches and favored treatment, and Mr. Geffner says, well, name one, and he couldn't name one at the time,

and largely because there's a dearth of official records. We don't have the records that would establish that to the degree that it should be established, so we have to do it in another way, and that's through the health and welfare records.

And I can also represent to the court

[RT 1037]*

that a* sizable number of the dispatches for these favored few are illegal dispatches, and I do not intend to go through every dispatch. Mr. Geffner can tackle that if he wishes, but it will only embarrass him if he does.

These people constantly treated him improperly according to the union rules, so for all of these reasons I think it is material to the case, and it also substantiates Mr. Hill's claim at the beginning, that he was critical of these people about the things they were doing.

THE COURT: To get it straightened out on Mascott, Mascott was put in by --

MR. HOBART: The health and welfare records were put in by Mr. Geffner.

THE COURT: What started that?

MR. GEFFNER: Mr. Hobart asked Mr. Hill on a specific job. He testified that he was out and worked at the same time with Mr. Mascott, and Mr. Mascott was campaigning for

Mr. Daley and Mr. Hill was laid off and Mr. Mascott remained on the job. That was the specific incident where Mr. Hill claimed he was somehow discriminated against by, he claims, someone who campaigned.

THE COURT: That's a boomerang.

MR. GEFFNER: I didn't object because he tied it in specifically to himself on a job, and tied it in to the fact that he was able -- he testified that he saw Mr. Mascott campaigning for Mr. Daley on the jobsite. I think that's certainly proper testimony.

I then, on cross-examination, showed

[RT 1038]*

Mr. Mascott's* hours over the last couple of years to rebut Mr. Hill's testimony to the fact Mr. Mascott did not have any hours of work. Now, that --

THE COURT: Score one for the local.

MR. GEFFNER: Right.

Now, that's a far different story than merely having Mr. Hill come in, without any tie-in to himself, and say 15 individuals are political allies of Mr. Daley, as a conclusion, and then coming in next and saying these 15 people worked these number of hours, therefore, it follows they were being discriminated against.

That is certainly not proper tie-in at all, because what that means is that we have to come in and show that Mr. Daley had 500 votes, whatever the number may have been, for whoever voted for him, and what hours did all of these different 500 people work, and it's going to go all over the map.

Some have worked a lot, and some have worked very little. That's the nature of the industry, and simply to state a conclusion in saying Mr. X, Joe, Kenny Scott, is a political ally, in the form of a conclusion, and then say Kenny Scott worked and made \$10,000 one year, is absolutely no tie-in at all.

There is no connection with Mr. Hill, and it's going to exactly -- I hate to keep coming back to this, your Honor, but I think it just has to be said over and over again, because what we are doing, Mr. Hobart is not tying in with Mr. Hill, he's putting the whole dispatching procedures on trial; did they improperly run it,

[RT 1039]*

whether they meet the* standards of the law, whether they meet the standards of the Master Labor Agreement, and that is an area for the National Labor Relations Board, it is not for the jury to pass judgment on the operation of a hiring hall.

Now, I know your Honor's ruling on this point, and I'm just reemphasizing it because I

think it has to be said on the record, but under the court's ruling, at least up to date, there should be some tie-in with Mr. Hill.

Now, what he testified on direct were specific incidents of individuals. He named Mr. Rodenfels, who he said got preferential treatment, so we rebutted it. I had --

THE COURT: That blew up.

MR. GEFFNER: He mentioned Mr. Mascott, and we rebutted it. Now, if he wants to name specific people that were favored over Mr. Hill, name any specific job, or any length of work, we can then try to respond, and I'm not going to object; but simply to come in and say 15, 20, or 30 carpenters were allies of Mr. Daley is a conclusion, whatever that may mean in terms of allies.

Does that mean you vote for them, does that mean you campaign for them, does that mean you don't like Mr. Hill, any political environment of the local union, then to show what hours these people worked is absolutely meaningless, because then we have to come in and show the work hours of virtually every member of this local union. I think we have a right and an obligation to do that.

MR. HOBART: Your Honor, they are the ones that took that Mascott -- which was in

[RT 1040]*

evidence, and I'd forgotten --* that took that Mascott health and welfare, then Mr. Geffner asked Mr. Hill, "And you claim Mr. Mascott was a political favorite or ally of these people?" He said, "Yes."

He said, "May I now read the hours to the jury to show what this political favorite got," and he read them in. Now, Mascott, he read in. had a lot of zeros to show you he hardly worked at all. That's exactly the way that issue came to the jury in the first place. I didn't bring it to them in that manner. I had a specific incident that we were referring to, but he took -- not only did he take Mascott's, but he even took Rodenfels', doing the same thing with Rodenfels, reading his into the evidence. I don't know if he went the whole extent on Rodenfels.

THE COURT: Yes.

MR. GEFFNER: Yes, I did.

MR. HOBART: He went the whole extent on Rodenfels, yet he wanted to show how this political ally received little or no favoritism. Now, that leaves a very distinct impression on the jury, and that impression is, gee whiz, they say these guys were political allies, but it doesn't sound to me like they were.

They have opened the door because they have read both of them in that context, and in addition to that, they stand up and say "Name

one incident, Mr. Hill, where you claim anything illegal went on during these three months of 1967." As I indicated, they don't have the records; but the point is, I do think that there is a reasonable inference to be drawn when you

[RT 1041]*

show -- for the time we do have the* records to substantiate illegal treatment. In other words, they are saying, well, see, he can't prove any, because we have destroyed the records.

THE COURT: Well, I think there is no question, you can show illegal treatment of Hill during that period, but I don't think any doors have been opened by the defendant on the Mascott or tne --

MR. GEFFNER: Rodenfels.

THE COURT: -- Rodenfels matter.

I think, however, for you to get into these things, it has to show some favoritism over Hill. That is, some act relating to Hill.

Hill, of course, testified that these men had been sent out on the job with him.

MR. GEFFNER: Yes, they were specific instances, your Honor. I have no objection to that. If they can show --

THE COURT: But I don't think we should go in -- I would permit you, without showing direct relationship to Hill and an incident, to go into all these other 15 or 20 men that Hill has said were teachers' pets.

MR. HOBART: All right, your Honor. I can tie some of them in, and probably the greatest number of them. Their illegal dispatches ran the gamut, and I know most of those had dispatches in 1968, and at least half of them were illegal; so I can tie them in.

[RT 1042]

MR. GEFFNER: All right.

On the motion to strike those names, I submit, your Honor, that the motion should be granted.

MR. HOBART: Well, your Honor, rather than granting the motion, I think the motion should be denied, but I should be limited in exactly the manner your Honor has stated.

THE COURT: Well, I will deny the motion, but limiting you --

MR. HOBART: I will not violate your Honor's order.

THE COURT: We have these men just as ipse dixit. Hill's ipse dixit they were teachers' pets isn't proof of anything.

[RT 1048]

Q All right.

Now, Mr. Hill, according to your prior testimony, you had been on the out-of-work sheets from April 8, 1968 -- I'll call them the sheets (at diagram).

Let's start with the Burke job. You were on prior to that, but -- you went out to the Burke job on May 1.

Now, you mentioned that the DeCinces job was not offered to you, but it shouldn't have been, anyway.

Now, according to your testimony, Mr. Hill, you stayed on the unemployment sheets until May 14, when you turned down the two-day retaining wall job. That was the Speer job. Remember that?

Now, on May 1 you have been offered the Burke job, and as I recall your testimony, the next job you were offered was on May 13 or May 14, the Paul Speer job.

Now, Mr. Hill, I have here the work referrals for all of May 1968, up to the 14th of May. I'm going to hand you one for May 1, 1968, and would you just identify that one; who it is for, and where he was sent.

A Well, it's work order No. D 2111, and the date is May 1, '68, Eric E. Torricelli, Local 25, sent to Morley Construction Company, 1642 South Olive Street, signed by Pen Fenwick.

MR. HOBART: Your Honor, may I ask
[RT 1049]*
that this be admitted* as plaintiff's next in order.

THE COURT: All right, that will be 37.

The Torricelli is the member preferred?

MR. HOBART: Right.

THE COURT: 1642 South Olive, requested by what?

MR. HOBART: I think it says requested by phone, your Honor.

THE COURT: I see. All right, that will be 37.

MR. HOBART: Your Honor, may I -- well, I'll go around.

Your Honor, may I ask that plaintiff's 37 be passed to the jury. This is the one that says "Req by ph," which I assume means request by phone.

May I pass that to the jury, your Honor?

THE COURT: Very well.

Q BY MR. HOBART: Now, Mr. Hill, up to the 13th of May I had counted out 105 dispatches, plus the two or three we've got in evidence already for May 1.

Now, of these 105 dispatches, Mr. Hill, some of which are various companies -- in fact, all of them are varying companies -- aside from the offer of work on the Burke job which didn't exist, and aside from the offer of work on the Speer job, which existed, but for two days, had you been offered any other dispatch during this period of May 1 to May 14?

A No, I wasn't.

MR. HOBART: Your Honor, in a rubber band I have these -- and I've got my notation on a little piece of paper -- 105 dispatches. It could be off one or two, I counted them hastily;

[RT 1050]

but I ask that collectively they be admitted as plaintiff's next in order.

THE COURT: All right, en masse, 38.

Q BY MR. HOBART: Now, Mr. Hill, some of those dispatches were on the DeCinces job, and you wouldn't have been available for that, anyway; is that right?

A That's right.

Q And I think some of them were requests. At least, it's indicated as requests.

But if it was a valid request, you wouldn't have a right to that job, either, would you?

A That's correct.

Q Now, with respect to the date of May 14, 1968, that was the day you were offered the Speer job. There are several dispatches that I found for that day.

THE COURT: Is that a single day, May 14th?

MR. HOBART: Yes, your Honor.

Q Mr. Hill, could you quickly leaf through those and see if any of those jobs, aside from the ones where there's a request, see if any of those jobs you are familiar with as to the type of work any of them are?

A There was obviously some class A concrete form work included in there.

Q Which ones do you --

A I would suggest this one here for Coy Atkins at 52nd and Hoover. That sounds like a school down there under construction.

Q Okay.

[RT 1051]

A I imagine they called it the 52nd Street School, I wouldn't know.

Some of these requests I don't know; some I recognize as framing jobs. Ernie Hahn is a contractor who builds shopping centers, and he specializes in commercial framing for shopping centers; Ceco Corporation, of course, is another steelform contractor.

Q Well, you were offered a steelform?

A I say that would be -- oh, no, this is apparently a request for something for Joe Wilk for four guys from another local; from different locals.

Q Okay. If you had been offered the steelform job --

A I probably would have turned it down.

There's several dispatches for 52nd and Hoover, Coy Atkins.

A Had you been offered any of those?

A No.

Q Do you know what this dispatch to B. Stahovich, this Willens & Bertisch --

A That's another class A contractor. They got an address on there, College and Figueroa Terrace.

Q You don't know offhand what that was?

A Well, it would be a concrete building. It could have been -- seems to me like it's over in the Chinatown area there, as I recall the location.

MR. GEFFNER: Your Honor, may we approach the bench, please?

THE COURT: All right. Do you want the reporter?

[RT 1052]

MR. GEFFNER: Yes.

(The following proceedings were had at the bench:)

MR. GEFFNER: Your Honor, I want to object to the line of questioning -- I've not objected over a series of questions, to see what it would aid -- in the absence of any specific testimony as to where Mr. Hill was discriminated against regarding his position on the out-of-work list, or where he was requested and not sent out, or any specifics.

Mr. Hill seems to be rambling through a lot of incomplete records -- which seem to be incomplete -- rambling on about whether he's not sure that this kind of a job, that kind of a job.

It's actually meaningless testimony, your Honor, and it is becoming prejudicial to the defendant, having to sit here and listen to this.

THE COURT: I think you were trying to direct Mr. Hill. I guess what you were trying to direct him to was Mr. Stahovich.

MR. HOBART: Well, no, your Honor. It's not just that.

Your Honor will recall we had mentioned the fact he had not been offered the DeCinces job, and your Honor so rightfully pointed out in chambers we ended up with egg on our face on that. Now what I am attempting to do, there were about 120 dispatches during this period of time, and he was offered none of them except these two jobs.

THE COURT: Well, he can look through, but to have him rambling on as he is now, I think

[RT 1053]*

it is self-defeating from* your standpoint.

MR. HOBART: I agree. I will keep it more limited.

THE COURT: All right, we will see.

(The following proceedings were had in open court:)

Q BY MR. HOBART: Mr. Hill, regarding those jobs of May 14th -- or April 14th -- strike that. That's May 14th, isn't it?

THE COURT: May 14th, '68.

Q BY MR. HOBART: Regarding those dispatches of May 14, 1968, were you offered your choice of any of them when you were offered the Speer job on the 14th?

A No, I didn't even know those jobs were available.

THE COURT: And all together, there were 13 dispatches there?

MR. HOBART: Let me count them, your Honor.

There are 12 here, your Honor, and one of them has a work request attached to it for that date.

THE COURT: Very well.

MR. HOBART: And I would ask that these be accepted as plaintiff's next.

THE COURT: All right, the 13 dispatches will be received as a bulk exhibit numbered 39.

Q BY MR. HOBART: Mr. Hill, with reference to that one dispatch that you were talking about on the 14th, this Willens & Bertisch job to Mr. B. Stahovich, is this Mr. Stahovich the same Mr. Stahovich which you indicated was a political ally of Mr. Daley's and Wilk's and Fenwick's?

[RT 1054]

A That's correct.

MR. HOBART: Your Honor, I have the health and welfare records for Mr. Stahovich showing that dispatch in May to Willens & Bertisch, and I would ask that it be admitted as plaintiff's next in evidence.

THE COURT: Well, what does it show?

MR. HOBART: It shows that --

THE COURT: Just read the substance of it.

MR. HOBART: Yes. It shows that on that job Mr. Stahovich received 24 hours in May, 144 hours in June, and 146 hours in July.

And I would ask that be marked plaintiff's next in order.

THE COURT: All right, those are the health and welfare records.

MR. HOBART: Yes, for Mr. Stahovich.

MR. GEFFNER: Your Honor, may we approach the bench again?

THE COURT: All right. Do you want the reporter?

MR. GEFFNER: Yes.

THE COURT: All right.

(The following proceedings were had at the bench:)

MR. GEFFNER: Your Honor, this is exactly what I was pointing out in the chambers. There is no showing Mr. Stahovich received a preference, that he was not entitled to be dispatched to that job.

THE COURT: Well, I think Mr. Hobart

[RT 1055]*

can bring out that* evidence.

MR. GEFFNER: He's simply saying Mr. Stahovich was sent to the job, Mr. Hill was not. Now, we can do that with all the members.

MR. HOBART: Your Honor, Mr. Hill testified that in his opinion that was the type of work he was registered for, concrete forms. Obviously, it is in preference to Mr. Hill.

It was the policy of the union to offer the man that was available. Now, Mr. Hill ended up on a two-day job, Mr. Stahovich, political ally, ends up on a two-month job. There's a big difference, and I think it is entirely relevant in exactly the same manner as Mascott was relevant, to show this type of activity. That should have been offered to Mr. Hill.

THE COURT: Why should it have been?

MR. HOBART: Because the union policy is when a man is qualified to do the work, he's offered the available jobs they have at that time. Now, I think Mr. Hill has testified as to what --

THE COURT: Well, how do we know Mr. Stahovich isn't also qualified?

MR. HOBART: Mr. Stahovich is not ahead of Mr. Hill on that list, and that's my next point.

THE COURT: All right. If that's connected, I will deny the motion.

MR. GEFFNER: Your Honor, there is no showing he was sent out as a steward, which he was.

MR. HOBART: Well, that's for the

[RT 1056]*

defense to explain.* After all, I don't have to prove their case, if there's some extenuating circumstance.

THE COURT: All right.

(The following proceedings were had in open court:)

THE COURT: Well, I think you would do well to go into the exceptions first.

MR. HOBART: Do what, your Honor?

THE COURT: The exceptions; that is, the exception to the rule that makes one workman a proper assignment, and another one an improper assignment, and we ought to have that first before we go into burdening the jury on how many hours they worked thereafter.

MR. HOBART: All right, I will do it in that manner.

THE COURT: Yes.

MR. HOBART: I will follow that up now, as the court has indicated --

THE COURT: Well, we've got poor Mrs. Richardson standing up here. Let's give her a

surcease of words so she can get back to her seat.

MR. HOBART: Your Honor, the out-of-work sheets for May 13, 1968, which have been previously admitted into evidence as plaintiff's exhibit No. 26, indicate that Mr. Hill, on the May 13th sheets, was on page 3 at line 12.

I can represent to the court that Mr. Stahovich is not on those sheets at all on that date, and consequently, was obviously behind Mr. Hill.

Mr. Hill, with respect to that Speer

[RT 1057]*

dispatch,* the record indicates that you had refused that dispatch, and then you were dropped to the bottom of the list at that point. Do you recall that?

A That's correct.

Q Now, I'd like to show you a dispatch on the same day to Mr. Andrew Ressel.

Can you tell us, first, the date of that dispatch?

A It's 5-14-68.

Q And where was he dispatched to?

A Paul W. Speer, 234 East Avenue 33.

Q All right. Now, that's the same job that you and Mr. Kabat had been dispatched to?

A That's correct.

Q And when you refused that job you were dropped from the list; is that correct?

A That's correct, if that's what the record shows.

MR. HOBART: Your Honor, I have, again, the sheets for May 13, 1968, the sheets from which the May 14 dispatches would be made, and I will represent to the court -- leaving, always, human error in looking over these names, that are sometimes illegible -- that the name of Andrew Ressel does not even appear on the out-of-work sheets; and I would ask, Your Honor, that the work referral to Mr. Ressel be admitted as plaintiff's next in order.

THE COURT: All right, I will admit it, but I don't see how, if Mr. Hill turned down the job, he's hurt by an unqualified man being appointed to the job that he turned down.

[RT 1058]

MR. HOBART: No, your Honor, the point is this, that the job was so minor they gave it to a man who wasn't even on the list; but for Mr. Hill, who turned that little job

down, they dropped him from the list.

THE COURT: I see.

MR. HOBART: I think that's quite significant.

[RT 1112]

EARL GEORGE DALEY,

called as a witness by the plaintiff under the provisions of section 776 of the Evidence Code, having been sworn, testified as follows:

DIRECT EXAMINATION

BY MR. HOBART:

Q Mr. Daley, if you don't hear my questions for some reason, if I'm speaking too softly, ask me to repeat it and I will do so.

When did you first become associated with Local 25 of the Carpenters' Union?

A I think 1940 or '41.

Q And in what capacity?

[RT 1113]

A A working carpenter.

Q At some subsequent time did you become a candidate for business agent?

A I'm sorry, I didn't hear you.

Q At some subsequent time were you elected to the office as a business agent?

A Yes, sir.

Q And when was that?

A I believe it was 1963.

Q All right. And you stayed in that office until how long?

A Until 1968.

Q In a general nature, what were your duties and responsibilities as a business agent during that period of time?

A That is, my responsibilities to the membership?

Q Yes.

A Well, I had certain procedures to follow. The rules were laid down -- not specifically, but usually, I had an obligation to my membership to represent them as best I could and in the best capacity I could.

Q Did one of your responsibilities include the responsibility of maintaining the out-of-work sheets?

A By maintaining --

Q Having them available, and having people sign them on Monday mornings, that sort of thing.

A Whenever it fell to my category, that was one of my responsibilities, yes.

[RT 1114]

Q Sometime it would be some other business agent that would do it?

A Yes.

Q And sometimes you would?

A Sometimes myself, yes.

Q Would it be fair to say that it was the responsibility of the business agent to see that the out-of-work sheets and the dispatching process was operated fairly?

A To the best of my ability, yes.

Q What was the procedure for signing the out-of-work list, Mr. Daley?

A Well, the procedure for signing it, I don't -- anybody could sign the book at any time. The book was available to the general public.

Q What was the procedure on Monday morning?

A Monday morning there was a new roll call; there was a roll call of available carpenters.

Q And where would you, if you were conducting the roll call, where would you sit during that roll call?

A I would be on the podium, a little bit raised from the floor.

Q And would the blank pages be on something just below you?

A On a sort of diadem, right in from there.

Q Something like you have right here?

A Yes, something like this, yes.

Q In other words, you are on that side, and the carpenter comes up and signs his name on this side?

[RT 1115]

A Not really that close. Probably be sitting over here, but the thing would be in that general idea, yes.

Q And you could see whoever would be signing?

A I would see who was signing it, yes.

Q I guess you had to call his name out; is that the idea?

A Yes, sir.

Q Would you go through the old list, omitting those people who had been dispatched, and call out the list as it was in order?

A Yes.

Q And if those people were there, then they would come up and sign presumably in the same order they had signed before, with the exception of those men who had been dispatched?

A Yes, sir.

Q Now, with respect to the dispatch procedures, am I correct in assuming that you were governed by the District Council dispatch rules that was published in a little brown leaf sort of thing, a cardboard sort of thing?

A I was governed by them, yes.

Q And that told you the method that dispatches had to be followed in order to comply with the collective bargaining agreement?

A Yes.

Q Now, if a man was number one on the list, and if he has forms, we will say, checked, and you get an order for a forms man, we will say with some company, Turner-McKee,

[RT 1116]

would it be your obligation to dispatch that first man to the Turner-McKee job?

A Whatever job is called in, if it was a forms job, and he was marked forms, I was obligated to call this gentleman for the job.

Q All right. And so if the Turner-McKee job called for ten forms men, then under the rules of procedure, you would take the first ten men, assuming they were there and available to go out to work?

A I would call the roll call off the list. I would call it off the list.

Q Would there be any authority for you to call, say, five or seven of them, then pick the last three from somewhere down on the bottom of the list?

A No, not that I know of.

Q In other words, you have to follow the list, and give priority to the man who's been waiting the longest?

A Generally.

Q Now, with respect to the issue of qualifications, on the sheet a man puts a check wherever he wants to put it; isn't that right?

A He classifies himself.

Q Right. So if he classifies himself as a forms man, you don't have the option of saying, "Well, you're not a forms man, you are a framing man, and I'm not going to send you out on forms"?

A I had no way of qualifying any man.

Q Each member has the right to qualify himself?

[RT 1117]

A That's right, sir.

Q And if a job came up where a forms man was required, or requested, and we'll say carpenter X was first in line, but for some reason or another you didn't think he would be the right man for that job, but he did think he was the right man for that job, it would be your obligation to send him, anyway?

A I had no business qualifying, or saying he was qualified or not qualified. He qualified himself.

Q So my point is, the answer is yes --

A I don't get the question, as far as "The answer is yes." Would you repeat it?

Q Surely.

The man who marks himself down as qualified for forms, we'll say a journeyman carpenter, even though you personally may not think that he could do the work on that job, but you personally would not have the authority to refuse to dispatch him just because you didn't think he could do the work?

A I had no authority. I had to dispatch him.

Q Right. If trouble came on the job, he could be fired by the supervisor or foreman, or something?

A That's where it usually came to a head, yes.

Q But it was not within your province to tell a man, "I can't send you out because I don't think you can do the work"?

A Oh, no.

Q Now, what was the general

[RT 1118]*

procedure for obtaining* work orders from the employer contractor?

A By procedure, you mean how we acquired the work orders, or --

Q Yes. How did you get the information that, we will say, Turner-McKee wants ten forms men tomorrow?

A Many ways.

Q Tell us.

A Sometimes a contractor came in himself, or sometimes he sent a representative in, or they would use the telephone or letter. There was many ways.

Q All right. Is one of those ways the most common way?

A Out of all of them, what is the most common way?

Q Yes.

A Usually, telephone.

Q And when you'd get the telephone order, you'd write it down on what's been called a white slip?

A I very seldom got the orders.

Q I see. You personally didn't take them; sometimes it would be Evelyn Folick, or somebody in the office?

A Secretary in the office. She was the only one authorized to take the order.

Q But when we talk about white slips, we are talking, basically, about the type of document I'm showing you here?

A Correct, that's -- oh, I beg your pardon. Could I see that again?

Q Surely.

[RT 1119]

A Yes, this is the general idea of what we call the white slip, where the secretary took the information down, and then left it available to the business representative, whoever came in in the morning.

Q I see. So you would get the white slip handed to you sometime in the morning if you were on dispatch?

A Generally.

Q Sometimes you'd rotate the dispatching, you say?

A Whoever was there took these. There was no procedure on whose turn it was, or anything like that.

Q Sometimes two or three of you were doing dispatching on the same day?

A No, that would create confusion.

Q Sometimes two on the same morning?

A Well, the only way two would be doing it is if one of them wanted to be relieved.

Q I see. But occasionally, there would be dispatching done by two people?

A I really -- I really don't know whether two done it or not. If I was dispatching why, I done it solely by myself.

Q Well, I have to pass that for now.

Mr. Daley, if I represented to you, without actually taking the time to get out the documents, if I represented to you on February 19, 1968, Mr. Joe Straveris was dispatched to Fellows by Mr. Wilk, and on the same day Mr. James Abel was dispatched to Sette Noonan, N-o-o-n-a-n, by you, would you say that that

[RT 1120]*

refreshes your memory, and* that occasionally two people are making dispatches on the same day?

A I cannot recall specifically this, or any one of these. This is quite a while ago, but this is possible.

Q Very well.

A This is possible.

Q In other words, it is possible that on some occasions, more than one person was dispatching?

A Well, not at a time; not at one time.

Q Oh.

A In other words, this could have happened after dispatching was all over, a late call in.

Q All right.

If I represented to you on February 29, 1968, Joe Straveris was dispatched to Oltmans Construction by Wilk, and on the same date that you dispatched somebody by the name of Vito Marinaccio to Steed Brothers, and on the same day Roscoe Franklin was dispatched to Barrett by Mr. Fenwick, would it be a fair statement to say that occasionally, although it was not the practice, the dispatches were made by more than one person on a given day?

A Oh, yes. In the way you put it, yes.

Q And that occasionally some of those would be morning dispatches?

A Well, they had to be morning dispatches.

Q Now, if a man works 15 hours, he is allowed to resume his place on the out-of-work lists; is that correct?

A That was the procedure.

[RT 1121]

Q And if he worked 16 hours, two full days, then he had to go to the bottom of the list?

A That was supposed to be the way it was, yes.

Q Now, if the man was dispatched to a job that lasted less than 16 hours, you would write "Pickup" in the sheets when he took his place back on the line?

A If he came there and showed that he got less than the 16-hour period in, then to show the procedure -- I mean, give the dispatcher a chance to pick him up to send him out on another job, yes, sometimes it was written as "Pickup."

Q Well, the word "pickup" had to be written there so that somebody who was reviewing the list would know that the man wasn't a sneak-in?

A Not necessarily.

Q No? Why did you write "Pickup" in there?

A Because it was brought to my attention by the individual himself.

Q And so you let him resume his place on the list?

A That was -- I had to.

Q Right. And I'm saying that the point is, that when you did that, the policy was to write the word "Pickup" so that whoever would review this list thereafter would know that this man had worked less than 15 hours?

A No, that wasn't the policy. It wasn't -- all the policy was, that if the man had less than 16 hours and he showed that he had a check stub showing less than 16 hours, he could come to the window, the dispatch window, and secure another job.

[RT 1122]

Q Directing your attention to the out-of-work sheets for February 12, 1968, taking a look at the last name down here, it looks like Leopoldo Hernandez. Somebody's written in the word "Pickup" there, haven't they?

A Yes, definitely.

Q Apparently it's in the same ink as the rest of it, so the word "Pickup" there, in effect, means the guy didn't get his 16 hours, and he has to resume his place?

A He has a right to be given another opportunity.

Q Now, Mr. Daley, if a man is offered a job and he refuses it, you put a date stamp; is that correct?

A That was the procedure.

Q And if, subsequently, during the week some type of work that he was qualified for came in, and he wasn't there to receive that dispatch, he'd get another date stamp?

A True.

Q Now, once you have had these two date stamps, that means that twice you have been available for work -- twice you should have been available for work and you are not working; is that correct?

A Could you rephrase that?

Q Sure.

Once a man got these two date stamps by his name, and assume he has not been dispatched out on one of those date stamps, once he's got those two date stamps, he has, in effect, rejected

two jobs, in effect, although he may not personally --

A Supposedly.

[RT 1123]

Q Right. And under the bylaws and rules of dispatching procedure as formulated by the Los Angeles District Council, two such failures to accept suitable employment meant that the man has to be dropped from the top of the list, and he goes to the bottom of the list?

A That's -- yes, that's right.

Q Now, isn't it true that on numerous occasions you would mark two date stamps by a man's name, but nevertheless, would not drop him to the bottom of the list?

A Not that I can recall.

Q To the best of your knowledge, every time a man had two date stamps you dropped him to the bottom of the list?

A There was a procedure, and as far as I know, that's the way it was carried out.

Q That's the way it was supposed to be carried out, wasn't it?

A Yes, sir.

Q Well, just to grab one at random, some sheets at random, Mr. Daley, I direct your attention to the date of January 29, 1968, and I see the name on page 1, down about line 17, of Thomas Smith. Do you see that?

A Yes, sir.

Q How many date stamps do you see for him?

A Two.

Q All right. Now, the next week -- would you like to review it a little longer? Please go ahead.

A No.

Q -- two date stamps, one for

[RT 1124]*

Monday and one for* Tuesday, then on February 5, according to the rules as you stated them, Mr. Smith should have been dropped; is that right?

A Should have been.

Q But we see Mr. Smith has moved up a little bit, he's still there, and we notice on 2-05-68 he's got two date stamps again, Tuesday, and it looks like Thursday.

A True.

Q Now we know he wasn't dropped on two occasions.

Let's see if he was dropped on the next one, 2-12-68.

Mr. Smith got a dispatch from page 1, didn't he?

A I don't see where he did.

Q Well, his name is lined out.

A Well, that's true, because there's two stamps there.

Q All right, let's take a look at the records and see if we can find something for February '68.

What is that name, Mr. Daley. Is that Thomas Smith?

A Thomas C. Smith.

Q Maybe we could do it a little quicker by looking at the next sheet, just to see if he's at the bottom of the sheet.

What would the next sheet be?

A 19.

Q February 19?

A Right.

Q I'll tell you what, my eyes are

[1125]*

kind of blurry; but you start looking at the back of the list on 2-19, tell me if you see his name, and I'll start going through the dispatch list and see whether he got a job.

A I'll join your class, put my glasses on.

A It helps.

Was his name Thomas Smith?

A You want me to go through this February 19th, all the way through, looking for his name?

Q Sure, see if he's there.

MR. GEFFNER: Can I help you?

THE WITNESS: I can't find it. It's not on there. I don't see it, anyway.

Q BY MR. HOBART: Well, I don't see anything here, Mr. Daley. Did you see anything there?

A No, sir.

MR. GEFFNER: I am double-checking, Mr. Hobart.

MR. HOBART: Okay.

MR. GEFFNER: No.

Q BY MR. HOBART: Now, Mr. Daley, would you agree with me that on the sheet where he has the red line -- which one is that?

A Right here.

Q Okay.

-- that it was the policy to run a red line, or a line through a man's name when he got a dispatch so you'd know next week not to call his name?

A The red line meant exactly that, so you wouldn't call a man's name; but there's

[RT 1126]*

no evidence that he was* dispatched here, because there's no job. If you will notice, the job orders are written down here behind the man's name.

Q That's only an occasional thing, isn't it?

A What's that?

Q Where you actually --

A You wrote the name of every job you dispatched a man to. You wrote the name down here.

Q You say whenever you dispatch a man you write the dispatch here?

A The job, where he was dispatched.

Q Oh, I see. Okay, let's just check that.

Was that the procedure that was supposed to be followed?

A Generally.

MR. HOBART: Excuse me, your Honor, just one second. I left some of the records in the car.

Q Now, you say, Mr. Daley, that the policy is to indicate the dispatches on the sheet whenever they are made?

A That was the general policy, yes. It was supposed to have been done that way.

Q All right. So any dispatches from the 3-11-68 sheets -- and if you'd care to use any other sheet as an example, I'd be glad to pick one

you suggest. I don't want you to think I have run in a ringer on you.

A No, go ahead, Mr. Hobart.

Q So the dispatches for 3-11 would start about 3-12, wouldn't they? In other words, 3-11 would have been the old sheet?

[RT 1127]

A 3-11, this would have been Tuesday. The dispatches would start on a Tuesday.

Q Right, because you dispatch on Monday from the old list?

A Right. If this was 3-11, and 11 fell on Monday, then the dispatches start out on Tuesday, which is clearly marked here.

Q All right. Now, I've just got a handful here. I see that Henry Standers was dispatched on 3-12 to -- can you read Mr. Wilk's writing, where he was dispatched to?

A Pretty hard. Some Foster & Kleiser -- well, this is a -- this is something unusual, Foster & Kleiser calling in for a man.

Q Okay, we will say that is not typical.

A No, it's not typical.

Q All right. Turner Construction is typical; right?

A Yes.

Q 3-12, Carlos Salinas to Turner. Let's see if that one is listed on here.

The fact of the matter is, on these sheets, 3-11-68, we only see one, two, three, four dispatches indicated off of those sheets, don't we?

A This is possible, because -- is Carlos Salinas on the list?

Q Well, let's assume he is on the list. I thought you told me it was your policy to line his name out and write the dispatch on the list.

[RT 1128]

A Well, not necessarily. This man could have been requested.

Q Well --

A He's an apprentice.

Q Okay. Well, wouldn't he be on the list?

A No, he wouldn't have to be on the list. He's an apprentice. He can be dispatched anywhere at all.

Q Here's a P. J. Walker. What's his name?

A H. Wolfe.

Q Okay, Howard Wolfe. He's on the lists, and it is indicated; is that right?

A That's right.

Q How about Mr. Ortega to Brown Framing. He was a request, but we don't know if he's on the list, do we? Let's just make it easy and skip those.

A Framing has always been a very easy job; but it's evidently a framing contractor.

Q Okay. Well, let's skip it, anyway, and he may not be on the list.

Okay, here's Mr. W. C. Palmer, and he's on the list and the dispatch is indicated.

A Yes, sir.

Q Okay. How about Lamont Johnson, P. J. Walker Company. He's on the list, and it is indicated, right?

That's a request, request -- okay, 3-13, Cornel Jenkins, steel form. He's not a request, is he?

A Unless -- he could have been sent in. He could have been sent in with a check stub,

[RT 1129]*

and requested a work* order, which was given to him.

Q Well, the fact of the matter is, when a man came in and was dispatched as a request, like the one I'm showing you with your signature, you'd write "Request" on it?

A If you had that work order. If that white slip was a request like that, you would. You would write "Request" on it, yes.

Q All right. Now, I don't know whether Mr. Cornel Jenkins is on the list or not --

A But let's take this one here. This one here, Steelform Contractors, would not necessarily ever have a request on it, yet the men were all sent in for a work order.

Q In other words, just an oral request?

A No, no oral requests. These men would come in here -- a foreman would come in and say, "Here, I want these men," and he'd bring their cards in as paid up, to show they were paid up, and as employees of the company. The work orders were written out automatically. You write the work order out for each individual.

Sometimes we'd write a work order out for steel form with a number of men's names on one work order.

Q All right, I think I understand that, but why would it not indicate it on the list? Why wouldn't the dispatch -- you have told us that the dispatches will be written out on the list?

A True, but under these circumstances here, the job was hard to fill. You very seldom could find men that would work on pan jobs.

[RT 1130]

Q What do you mean, "pan"; steel form?

A No, this is the name of a company.

Q Oh, Steelform, for the most part, did steel pans, or worked with steel forms?

A Pans, yes.

Q You couldn't find too many people, so sometimes you'd dip into the bottom of the list?

A You'd dip into anything you could to fill the order. Sometimes it was impossible.

Q I gather -- why would it be impossible to fill a steel form job? It's not that --

A Well, a carpenter qualified himself, and sometimes he didn't like this type of work.

Q Was it kind of heavy, or something?

A Well, it's rather difficult. Might be a little heavy, yes.

Q All right. Well, let's move on and see if we can find another one.

How about Steed Bros.? That's 6th and Hope. That would have been a regular construction, wouldn't it?

A Regular

Q Let's see where Vincent -- what is his name? That's your dispatch, isn't it?

A Vincent De Jong.

Q Yes.

A I think he was a steady employee of them.

Q Well, you'd have to have a request for him?

A No, not necessarily. If he came

[RT 1131]*

in and requested* a work order, and he showed that he was an employee with check stubs and he was transferring from one job to another, then it was our -- we'd just have to check out to see he was an employee, by requesting a check stub, so --

Q Well, how do you know if he's a request, Mr. Daley?

A Generally we got a phone call, and said, "I want so and so," or something like that. Or else a man would come in and he'd say, "I'm transferring from one job to another. See, here's my check stub. I work for the company." So we would write the work order out for this man to go from this to that job -- from there to that job.

Q I was under the impression that when he had a request or job transfer you wrote it on here.

A I'd -- when you call them requests, Mr. Hobart, I have had requests written on wooden shingles, 2-by-4's, anything that a man could write on. They would write or send it in. Sometimes it would be written on a little teeny piece of paper that they'd pick off the ground.

Q Well, that's not my question. My question is, is this, then --

A What?

Q -- is it not a fact that when there is a request, you people all wrote the word "Request" on these yellow slips -- I mean, at least half of them?

A This is true, but it's not necessarily infallible.

Q I see. Sometimes you'd forget to write "Request"?

A Yes, sometimes we'd forget.

Q With respect to Vincent De Jong

[RT 1132]*

with the Steed* job, do you have any knowledge of whether he was requested for that job?

A I have no idea. My name is on it, but I have no idea.

Q If he was a request, he could have been on a slip of paper, or one of the regular forms?

A It would indicate to me that this here, at 9:00 a.m., would be a request.

Q Okay.

A See, this 9:00 a.m. written on here, evidently by me -- it's there -- would indicate to me that this could possibly be a request.

Q Why wouldn't you write the word "Request" there?

A After a while you try to get, you know -- I mean, you get a little punchy. You don't do everything exactly right. You've got to miss sometimes.

Q Of course, if the workers were behind a fellow on the list, don't know he's a request, that would certainly raise some dissatisfaction in their mind, wouldn't it?

A If you don't believe it, get up there and do it. They'll really tell you.

THE COURT: Mr. Hill has brought those in hopes you will find the mysterious Mr. Smith in those two cases.

MR. GEFNER: We found Mr. Smith.

MR. HOBART: Oh, we did find Mr. Smith?

MR. GEFNER: Yes, on the February 26, '68 out-of-work list.

MR. HOBART: What page?

[RT 1133]

MR. GEFNER: Page 10, line 3.

MR. HOBART: Thank you.

Q Well, Mr. Daley, just to follow up on that, since we have found the elusive Mr. Smith, is there some reason why he wasn't stricken from the list?

A Well, I can't recall any real reason right now. It's quite a while. It could have been several reasons.

Q You don't know that he didn't get a job during that period, do you?

A I wouldn't know now, no, sir.

Q I'm showing you the sheets of January 22, 1968, at page 10 Mr. Al Johnson appears on this page somewhere -- perhaps not. Is Lamont Johnson Al Johnson or Al C. Johnson or neither?

A I wouldn't specifically remember Al Johnson, per se. I might if I saw him, but by name, I couldn't say.

Q Looking at the dispatch for 2-1-68, page 9 on the January 29, '68 sheets, do you see the name H. H. Mitchell there?

A Yes, sir.

Q Now, do you see any dispatch indicated for him on that sheet?

A No.

Q Now, if he was dispatched on that day from page 10 on that list, he should have had his name lined out and the place indicated where he went, shouldn't he have?

A Ordinarily, yes.

Q Well, let's see if he was dispatched that day.

[RT 1134]

All right. Now, you dispatched him on that day to Volume Merchandise; is that right?

A Yes. That's not a contractor.

Q Does it matter?

A Yes, it does.

Q All right, tell us what the difference is.

A Well, the difference is, every once in a while we'd get an order for 20, 40, 50 men by a guy doing a home show, like in the Forum, or any place -- decorators, just like -- decorators, and they couldn't get the job done, so we would ask men who would want to go out there.

But this Volume Merchandise, I don't remember exactly who that was, or anything; but we would dispatch these men to the job, and Volume Merchandise doesn't ring a bell at this time what ~~the~~ were in, but they don't sound like a contractor to me.

Q Well, if a man goes out to work --

A Oh, I seem to recall this, sort of -- yes, this was a contractor.

Q Well, there are three dispatches to that contractor, Mr. Daley?

A Yes.

Q Now, going back to my original question, sometimes when you make a dispatch, the dispatch is not indicated on these sheets?

A Oh, this is very true, Mr. Hobart; very true.

Q Okay, that's all I was trying to show.

Here, let me put those back in here.

[RT 1135]

However, is there any reason that you can think of that you would dispatch a man to that job from page 10? -- and I don't know where the other two dispatches are.

A Yes, there could be a reason.

Now, specifically, you brought Mitchell up here, and he has a work order there. Mr. Mitchell was quite frequently at the hall, or in the vicinity of the hall, all day long. In other words, it was a home away from home, and once in a while we'd get a job like this one, a remodel job downtown where the guy would call up and he would get ahold of a business representative like me, or somebody, and request a man right now, so we'd check the hall and see if there was anybody around available.

Q Well, let's just --

A In other words, we weren't dispatching off the dispatch slip.

Q Well, let's just check something here.

As far as Mr. Mitchell's dispatch is concerned, the number on his dispatch is 10658, isn't it?

A Yes, but that doesn't mean a thing, sir.

Q Well, you will agree that it is 10658?

A Yes, sir.

Q And you will also agree that one of the other dispatches to Volume Merchandise is 10657?

A That's right.

Q The other one is not?

A That's why I say it has no bearing.

Q Well, as far as Mr. Mitchell is concerned?

[RT 1136]

A Yes.

Q Now, a dispatch to Vinnell Company, 10661, on the same day; right?

A True.

Q And we have a dispatch to Vinnell, 10660; right?

A True.

Q And we have a dispatch to Vinnell, 10659?

A True.

Q Now, that gives you some indication that they were probably dispatched right at the same time that morning, doesn't it?

A Generally it would indicate that, yes; but these dispatch orders were kept in a drawer, and they were loose in the drawer, and we reached in and grabbed one.

You didn't follow -- necessarily follow them. They weren't on a spindle, or anything like that. They were loose in the drawer; so you could get one that had no relation to this number.

Q You would agree with me, wouldn't you, that whenever you got two dispatches, 10657, 10658 --

A On the same date.

Q -- on the same date, then I can show you 10659 and 10660, those would be a pretty good indication those were morning dispatches?

A True.

Q And those morning dispatches, at least for H. H. Mitchell -- we haven't checked any further for the rest of them -- but as for

[RT 1137]*

Mitchell, the dispatch does not indicate* on the sheet?

A Now, what date were these here?

Q These were on the 1st.

Q The 1st.

A Yes, of February, right.

Q Yes.

A See --

Q That's what I', saying, they were all dispatched at the same time, February 1st, in the morning.

A I couldn't really say that, Mr. Hobart, because these dispatch order numbers are not necessarily indicative of when they were dispatched or written.

Q No, but they are pretty close to accurate, aren't they, Mr. Daley?

A I can't say that, either. I would say they should be accurate, but knowing our procedures up there, we're not too accurate.

THE COURT: By accurate, I guess you gentlemen are talking about serial order?

THE WITNESS: Yes, sir, that's what I mean.

MR. HOBART: Yes, sir.

Q For the most part, your dispatches are in serial order?

A No, sir.

Q For the most part, but some of them are not?

A No.

Q As I said, they keep them in a

[RT 1138]*

drawer, and they* were looking in a big drawer, like in a box.

Q When you bought them in the first place --

A They were in a box in rotation.

Q And somebody had them printed up?

A Yes, sir.

Q And they were printed up, and printed in numerical order and stacked in numerical order?

A That's right.

Q And you would take them out of the box they came from the printer in?

A That's right.

Q All right.

THE COURT: Well, perhaps we ought to take our morning recess now and find the other things Mr. Hill brought up in the valise there.

So we will take 10 minutes off, and the jury is given the customary admonition.

(Recess.)

THE COURT: All right.

Q BY MR. HOBART: Mr. Daley, we've got, for the most part, February '68 sheets up here --

A There's one here -- three of them.

Q January 29th would be a good one; February 12th, 19th -- so there should be one more, right? -- well, it wouldn't be on those two. Let me find it.

We want 26. February 26. Here it is, okay.

A Want to put these here?

Q I'll put these over here. I don't

[RT 1139]*

think we will* need them right here. We'll get them out of the way.

Now, Mr. Daley, as you probably know -- or maybe you did not know -- I went out to the union some time ago and photocopied all the records that were there available for me to photocopy, of any that were relevant to this case.

I have in front of me employer requests, the actual photocopies of them, for February of 1968, and I have some of the telephone work order, white slip requests, for that period of time; and you, sir, have the February out-of-work sheets in front of you.

Now, starting with the dispatch of Mr. Ted Roth, we already had the dispatch. We talked about the dispatch of Mr. Mitchell from the back of the book -- which one was Mr. Mitchell on? That was on the January 29th sheets.

He's on these sheets here. I'd like to keep a running note of that. Okay.

So as far as Mr. Mitchell is concerned, he was on page 9. Do you find him there?

A Yes.

Q Now, Mr. Mitchell did not have any dispatch indicated after his name, did he?

A No, sir.

Q And that's a violation of the rules -- at least, if it's intentional? I'm not saying it

couldn't have been inadvertent.

A No, it's not a violation.

Q I thought you told us before when you made all the dispatches you indicated them on the work sheets.

[RT 1140]

A That was supposed to be the general practice of the local, but it wasn't the law laid down by the District Council.

Q Okay.

But, at any rate, his dispatch is not indicated, and in all fairness to you, sir, do you have any explanation as to why a man on page 9 was dispatched in front of all the brothers ahead of him? Any particular recollection on that?

A No particular recollection on this particular case, no, although my name is signed to it.

Q Okay. Now, let's mosey along.

Showing you a dispatch for Mr. Ted Roth on February 5, 1968, what is that, Nichols?

A Yes.

Q Nichols Construction, Courthouse Building; right?

A Right.

Q Okay, that's general carpentry work, or general construction work, isn't it?

A No, it is not. It is finish work. You wouldn't call this paneling carpenter work.

Q All right.

If you would take a look at the sheets for the dispatch of the 5th of February, I guess that would be off the January 29th sheets; is that right? You wouldn't go off the February 5th sheets, you'd go off the sheets prior?

A No, you'd go off this here list here.

Q As my wife tells me, I'm subject to many human frailties, but I have reviewed that

[RT 1141]*

document, and I can't find* Ted Roth's name on there, anywhere.

Perhaps you'd like to quickly go through it and see if you can find Mr. Ted Roth.

A I am familiar with Mr. Roth.

Q Well, first see if you can find his name on it.

A I don't see it. Usually he's on one or two pages; one or two.

Q Okay. Now, he wasn't dispatched as a request, was he?

A Well, it's not indicated.

Q And if it is finish work, there is a number of fellows on here who have indicated they can do finish work; isn't that true?

A This is the column here used for that, yes.

Q There's quite a few of them?

A Right.

Q And some of them were still unemployed when this dispatch went out to Mr. Roth; is that correct?

A Evidently.

Q Now, do you have any specific recollection that you could direct our attention to as to why Mr. Roth, who wasn't even on the out-of-work sheets, was dispatched to that job ahead of many others on the sheets that can do the same kind of work?

A There could be several explanations which might fit, but which I couldn't vouch for at this time. It's been quite a while, but if I remember right, Ted Roth was a finish carpenter.

[RT 1142]

Q Well, if my reading is correct, Gehring is a finish carpenter, a guy named Stebbins is a finish carpenter, a guy named Jackson is a finish carpenter, a guy named Jacquinet, or something -- I'm reading just those that weren't dispatched -- Jennings is a finish carpenter, Aragon is a finish carpenter; and there are numerous finish carpenters.

For example, there's got to be one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve on page 5 who are finish carpenters, and probably are on each and every page; but at the moment, you don't recall why Mr. Roth was dispatched?

A No, I can't recall why, or the circumstances at all.

Q Now, with respect to Mr. Paul McErlane, he was dispatched on February 5, 1968.

Now, again, in my review of the January 29th sheets, Mr. McErlane does not appear on those sheets at all, and he was dispatched to the J. W. Burke Company, wasn't he?

A That states right there, yes, sir.

Q That's general contracting work, isn't it?

A Yes, very -- it was a long-time job, Department of Water & Power.

Q A pretty good job from a carpenter's point of view?

A Very good.

Q Okay.

Now, offhand, do you know why Mr. McErlane was dispatched to that job when there

[RT 1143]*

were dozens of carpenters* ahead of him on the list?

A No, I can't recall any specific reason, except that there was considerable confusion on the job to begin with. The scheduling of the job by the superintendent was rather fouled up, and there was some confusion on the job.

Q Was there some confusion in your office.

A Generally there was some confusion in my office.

Q All right. Was there such confusion that you would say that the reason that this man who wasn't on the list got this good job, was because your office was confused?

A No. No, I wouldn't say that.

Q All right. Well, let's go on to the next one.

You've got the name of a Mr. Juden -- is that his name?

A Got me, I wouldn't recall the name.

Q Okay, N. Juden. He apparently was sent out by Mr. Fenwick; is that right?

A Seems to be Fenwick's name, yes.

Q And it would indicate a request?

A Um-hum.

Q Is that right?

A Yes.

Q Now, if you would be so kind as to review the employer requests that existed for that month, February 1968, of which I represent to you that I copied all of them, and --

A You copied this one, too.

Q No, I didn't see one there. Maybe I overlooked it. You just tell me if it appears

[RT 1144]*

there. In other words, see if you* see Crown Construction requesting Juden.

A Well, I'll take your word for it that it's not there, if you say so, Mr. Hobart.

Q I will say it is not there.

A But there is considerable doubt as to whether this request was recorded on paper. It could have been a telephone request.

A I see, okay. So I'll just make a note on the back of this one, that this is possibly a telephone request.

But, at any rate, Mr. Juden, who was, as you say, possibly a telephone request, will you take my word again, Mr. Daley, that he does not appear on the lists for January 29, 1968?

A I'm pretty sure you went over it pretty thoroughly.

Q Well, I surely did, but I am fallible. All right.

And now let's go to the next one. You had a fellow by the name of Juan Flecha -- Flecha?

A Yes.

Q Is that Flacha or Flecha?

A Flecha.

Q Okay, Juan Flecha. You dispatched him to the Burke job on Alpine Street; right?

A My name's on it.

Q All right. Now, I have reviewed the sheets, and again, I am subject to error, Mr. Daley, and I trust between you and counsel you will at least double-check me, but I did not see Mr. Flecha's name on those sheets.

[RT 1145]

A Still could have been a request.

Q Could have been a request?

A Yes, sir.

Q Well, you didn't write "Request" on the document.

A That's true enough, but that doesn't mean it couldn't have been a request. There's several forms that can be taken in a request.

Q What are those forms, so we can find out?

A Telephone requests where I don't have a written one, so I get a telephone call for certain men, which I have to dispatch their names if they are in the hall.

Q Okay. But even if it's a telephone request, you are still supposed to at least indicate "Request" on there, aren't you?

A No, sir. No, sir, it's not a required procedure. It is only for our own information.

Q All right. Well, it is the practice of the dispatching procedure to write "Request" if the man is a request?

A Well, usually for our own information, yes, but not a law, or not a rule.

Q I see.

Well, referring you to plaintiff's exhibit 37, you will see here on May 1, 1968, Mr. Fenwick made a dispatch, and he indicated on there that it was a request by phone. Now, isn't the policy that if it is a request, he would write the full thing out, "Request by phone"?

A No, sir.

[RT 1146]

Q Okay. In other words, if it is a request, you may or may not put it down, and in your opinion, there is no requirement to?

A No requirement. It may or may not, true.

Q Now, with respect to Mr. Flecha, his name does not appear as being requested by the Burke Company on the prior request forms, at least as best as I saw them.

A Do you have any request from Burke Company on the list at all?

Q Well, let's just take a look.

I don't see any on this list. Here are lists. I maybe not have typed them all up, but I will assume there are none.

A You wouldn't have to -- yes, I would say so.

Q Let's just, for the sake of thoroughness, see if we can find a white slip for -- what was that, the Burke job?

A Yes.

Q Well, we do see a white slip for the Burke job, don't we? We see a 2-05-68, which is the date Mr. Flecha was dispatched.

It says the number of men, and it says "2," doesn't it?

A Yes, sir.

Q Now, presumably he would have been dispatched pursuant to that request, wouldn't he?

A I would say so, yes.

Q Now, there is no indication on there that you had a telephone request, is there?

[RT 1147]

A This is not required.

Q But if you had a telephone request, isn't it likely you would have written the name down?

Say, if Evelyn Folick took this request in the morning, wouldn't she put down "Juan Flecha is requested"?

A Right.

Q But she didn't?

A Is this the girl's writing?

Q I don't know.

A I don't know, either.

Q But this is the white slip for this job, inasmuch as this is the same address?

A It would indicate that.

Q And it doesn't show any requests?

A Which, again I say, is not required. We do it for our own information, to sort of keep things going.

Q Well, isn't it also for protection for the men, so that the other men who are sitting waiting on a list, and they see these people flying out of there --

A It is our job to protect the member at all times on that list, yes.

Q Isn't one of the requirements to tell the men when they see somebody's not even on the list getting a dispatch, that that's a request?

A If they come up and ask me, I will tell them truthfully that it is a request.

Q But sometimes you don't write it down on the slip?

A That's true.

[RT 1148]

Q Okay.

Now, showing you a work referral for Mr. Felix Montoya, dated February 6, 1968, signed by you; is that right?

A True.

Q Sent over to Wal Yea?

A True.

Q And that's a regular construction business; regular carpenter's work?

A Yes, sir.

Q Now, that would be dispatched off of the February 5th out-of-work list, wouldn't it?

A Should be, according to this, yes.

Q All right. Would you turn to page 8, line 1 --

A Top of the page?

Q That's right. He's on page 8, isn't he?

A Yes.

Q Now, is his dispatch indicated on this sheet? Did you write on there that he was dispatched out to Wal Yea?

A There's nothing written there whatever.

Q Doesn't that further confirm that sometimes you do write it, and sometimes you don't?

A This is true.

Q All right.

Now, can you tell us -- first off, Mr. Montoya was not a request, was he, to the best of your knowledge?

A I can't say. There's no way I can tell you that.

Q Okay. Well, I can show you the written requests that were there for that month. There is not a written request?

[RT 1149]

A From Wal Yea?

Q Well, let's just see if we have any.

A I doubt if you have any.

Q Why wouldn't I have any?

A Because you haven't got them for Burke.

Q I have them for a lot of other companies.

A Your list is not complete.

Q Well, that may be true. How can you tell my list is not complete?

A Well, you couldn't find Burke on there.

Q Well, you told me it may have been a telephone request.

A Could be.

Q Well, I don't have any -- Wal Yea was just -- for the convenience of everyone, wouldn't you say that I do have the employer requests for a good number of different firms in February of 1968?

A I would say you have.

Q And again, just for -- see if, by any chance, there's a white slip here for the Wal Yea job.

What is the date of that dispatch? Okay, I see one -- I see a Wal Yea white slip taken by Mr. Keen; is that right?

A Keen also dispatches.

Q But he took that order, didn't he?

A Yes.

Q And he took it, probably, on the evening or the afternoon before?

[RT 1150]

A You could tell -- sometime during the 5th, yes.

Q All right. Now, it's more than likely that that is the job that refers to the one that Mr. Montoya got sent out to, inasmuch as the address is the same?

A It looks like it would be that, yes.

Q Now, if somebody had told Mr. Keen the night before that he wanted a request of Mr. Montoya, isn't it likely that Mr. Keen would have written that down there so that the dispatcher would know it?

A I would say that he would write it down if there was a request by name, yes.

Q Okay. Now, wouldn't that indicate to you, Mr. Daley, that this man didn't have a request on that day?

A No, it wouldn't, because I have no way of knowing it, not really.

I would like to answer your question, but I can't really answer it; but this gentleman also indicates that it was a hard job to fill.

Q Possibly heavy?

A Do you recall what you're talking about? Steel pans.

Q Okay.

A So it's possible that I couldn't fill that job.

Q All right. Inasmuch as he's on page 9, I'm looking at page 8. That has no dispatches, or page 7, that has no dispatches. Page 6, that has no dispatches, at least that are indicated. Page 5 has no dispatches that are indicated.

[RT 1151]

By the way, did Robert Lopez and Mr. Rorenda, did they ever work steel pans?

A I don't recall the name, even.

Q A lot of the Mexican fellows worked steel pans, or steel jobs, steel form?

A Quite a number of them, yes. They made a steady job out of it.

Q And on page 4 there were no dispatches made, but there were some on page 3; so are you telling us, Mr. Daley, that you couldn't find anybody to do that work on pages 4, 5, 6, and 7, and you had to dip all the way down to page 8 in order to find --

A Mr. Hobart, I've had to go through 200 men to get a man to work on those jobs.

Q You don't know that is the situation?

A Not in this case, but it has happened.

Q That hasn't been your problem on steel form jobs?

A Oh, it became a problem trying to fill the job, sometimes.

Q Steel forms are that bad?

A Company was a hustler, and it was hard work.

Q Didn't any of these carpenters, I mean, any of these guys, didn't they have to take it? You know, you get a steel form job, don't you have to go off the list and say, "Here"?

A No, sir.

Q You mean to say if a guy would refuse a steel form job -- take the first name here,

[RT 1152]*

Mr. Merriman -- and he'd* refuse it, you wouldn't give him a date stamp for it? -- is he a specialty?

A Mr. Hobart, would you show me a category here saying "Steel pans" on here?

Q There is no category for it.

A That's right, that's right.

Q So, in other words, if you had a steel form job, then, a man who would refuse it, that wouldn't, in your opinion --

A I couldn't possibly feel that I could penalize a man for not taking a job he didn't want that wasn't listed.

Q I see, okay. Okay, we are moving right along.

Now, Mr. Lopez, Jose Lopez, got a job from you on February 6, 1968 to Better Builders?

A I don't even recall the contractor.

Q Okay. Well, Mr. Lopez is on page 5, line 13, if I'm halfway correct.

Right there.

A That's not Jose, that's Robert.

Q We will have to take a different one. We will have to hold him off the side. I don't want to misstate something.

Well, we've got a dispatch of Mr. Ed Praecon. Mr. Praecon was dispatched on the 6th to the William Simpson Company. Now, I didn't find his name on those sheets for the week of February 5, 1968, and it doesn't appear to be a request.

Do you have an explanation as to why he would be given a dispatch to the William Simpson,

[RT 1153]*

when he was not even* on the lists?

A Well, at this time it's quite a while ago, Mr. Hobart, and I can't recall definitely. These things popped up hundreds of times, so I wouldn't know exactly what the circumstances would be.

Q What things popped up hundreds of times?

A Dispatching procedures, where you could send a man out that wasn't even on the list because he was in the hall, and nobody else was. There was an obligation to send men out to a job when they were ordered, regardless of whether the list was there or not.

Q Well, let's just --

A We had an obligation to the contractor, you know, as well as our membership.

Q Let's just take a look at this, Mr. Daley. On the --

Your Honor, I have to get something for my throat. Can I get a lozenge?

MR. GEFFNER: I hear you have the flu.

May we approach the bench, your Honor?

THE COURT: All right. Do you want the reporter?

MR. GEFFNER: Yes, sir -- no, I don't think so.

(A conference was had at the bench, not reported.)

Q BY MR. HOBART: Are you ready to proceed, Mr. Daley?

A Oh, I'm sorry. Excuse me.

Q All right.

[RT 1154]

Now, with respect to Eddie Praecon being dispatched to the Simpson job on February 6th, Mr. Praecon, to my knowledge, does not appear on the February 5th list at all.

Now, can you explain the circumstances under which a man such as Mr. Praecon could be dispatched to that job when he's not even on the list?

A Yes. He could be requested by a phone call, and dispatched as a former employee. I would have to honor such a request.

Q And that's -- well, now, we do have, fortunately -- we do have William Simpson requests.

A Um-hum.

Q Let's just take a look and see if we have any William Simpson requests.

You can see, as a matter of fact, that there is a good number of requests by Mr. Simpson.

A For what job, sir?

Q Maybe various jobs, I don't know; but how many requests by the Simpson Company are there?

Let's count them. One, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen. Okay, so there are at least sixteen requests by the William Simpson Company during the month of February, and Mr. Praecon does not appear as a request.

Is your only explanation that possibly it was a telephone request?

A No, that isn't my only explanation.

[RT 1155]*

I say, you* have an address here of William Simpson, which is a huge company which employs

several hundreds of men, and requests all the time. Sometimes they are written for one job, and they are not written for another job. In other words, this is a reliable contractor, and he employs hundreds of carpenters every year; hundreds of them, and --

Q I recognize that, but I want you to tell me, can you point to anything, anything specific in writing, that would indicate to you that he was a request; where Eddie Praecon was a request by the William Simpson Company?

A I doubt if I could point out any instance where a request was made or not made.

Q And, Mr. Daley, isn't it true if he were not a request, this would be an illegal dispatch?

A No, sir.

Q If it was not an illegal dispatch, what other --

A Under the 25-percent law.

Q What 25-percent law?

A In other words, a contractor is allowed to hire 25 percent of his men by name, or any other way he wants to.

Q By request?

A Not request, no, not necessarily. There's nothing in the dispatching procedure that says a contractor must request by writing.

Q Okay, let's get one thing straight. He can request orally or by writing, either one?

A I would be on the jobsite, and he could orally request certain men.

[RT 1156]

Q Do you have anything at all to indicate that you think that this was a request?

A I can't recall the incident, Mr. Hobart.

Q You didn't write "Request" on it?

A Sometimes I never wrote "Request" on an order, I just took it for granted, and wrote the work order.

Q If he was not a request -- just assume that for a moment, recognizing that you do not concede that -- if he was not a request, then it would be an improper dispatch to send a man out to a job who was not on the lists?

A I can't see -- I can't see your question, Mr. Hobart. You are leading me into something I cannot answer.

Q If there was not a request of some sort, then it would be an improper dispatch, wouldn't it?

A No, not necessarily. I can't answer that question that way --

Q What other circumstances --

A -- because it's a supposition.

Q What other circumstances would make it a valid dispatch if it was not a request, oral or in writing?

A Well, the only other circumstance that would make it valid would be the honesty of the man writing it.

Q That's you?

A Certainly.

Q Well, I don't quite get the answer, what you mean by that.

A In other words, I'm trying to tell you that I done the job to the best of my ability, and at this time, five, six years later, you expect my mind and my memory to be accurate. I can't do that, Mr. Hobart. I'm only trying to say that I can't answer your question yes or no under that circumstance.

Q All right.

Now, again on February 6th a dispatch to Walter Rodenfels to the William Simpson Company, the same job that we have been talking about for Eddie Praecon.

A Yes, sir.

[RT 1158]

Q All right. Now, you didn't write "Request" on there, did you?

A True.

Q All right, let's see where he appears on the sheets.

By the way, Mr. Daley, you might note that on page 5 of these sheets appears the name of Richard T. Hill. That's for February 5, 1968.

A Yes, sir.

Q All right. Now, Mr. Rodenfels appears at page 7, line 12.

Is that his name there?

A Yes, sir.

Q He's got one thing checked. He's got "Forms" checked.

A Right.

Q That's the kind of work Dick Hill did, isn't it?

A Yes, sir.

Q Now, what would be the circumstances that would have caused Walter Rodenfels to be dispatched from page 7 to the William Simpson job ahead of all those people in front of him on the list, including Dick Hill?

A Well, there could be several. It could be that -- usually the dispatch hour was during 7:30, 8 o'clock, 8:30, and this dispatch order could have been written 9:00, 9:30, 10 o'clock, when everybody had gone home.

Q That's a possibility?

A Yes, sir, could be.

[RT 1159]

Q But you don't say that's what happened?

A Oh, it happens usually -- several -- quite often.

Q What was that William Simpson job, can you tell by the address?

A 800 West 2nd Street -- you know, I can't even recall the type of job it was, or what it was.

Q All right.

At any rate, is there any reason that you can think of that that job shouldn't have been offered to Dick Hill?

A It would have been offered to Dick Hill if Dick Hill was there.

Q I see. Why doesn't the dispatch show on the sheet, on these sheets? Why haven't you indicated that dispatch of Mr. Rodenfels to the Simpson Company?

A Again, this is not a law or rule of thumb.

See, this might have been a request, like I say, and I wrote it out, and no matter what this book -- could have been out there in the open somewhere, and I wrote the work order right there, and then handed it to him, and that was the end of it. I didn't trouble to go to the book and enter it in the book.

Q Now, you say that's if it is an afternoon dispatch?

A Or the usual hours. Men are dispatched out of the office all day long.

Q So he may have been a late dispatch, or telephone --

A Could have been any one of them. I couldn't say for sure on any of them, I don't know.

[RT 1160]

Q Now, we have a fellow by the name of Robert -- maybe you can tell me his last name -- Imbrecht, is that it?

A Yes, sir.

Q All right. Now, he's not indicated as a request for this William J. Burke job, was he?

A No, evidently. It doesn't look like it.

Q Now, he's on page 9 -- okay, 12. Is that him there?

A Yes, sir.

Q Is there any reason that you know of that this man who was so far down on the list was dispatched ahead of those people whose names are higher on the list than him?

A The only reason I can say is, inclusive of the others, that this job was in confusion at the start, and men were being dispatched to this particular job at all hours of the day.

Q How do you happen to recall that this 1030 Alpine job was one of confusion?

A Because I was the one that was getting confused by the superintendent on the job. I had several run-ins with him in making him pay the men that showed up on the job and not got the work.

Q Have you been advised in the last couple of days that this was one of the jobs that Mr. Hill went out to and that he had to turn around and come back?

A You wouldn't advise me of that, now, Mr. Hobart, would you?

Q I wouldn't.

[RT 1161]

A I wouldn't even know the job unless you bring it up.

Q But you are so able to remember it was a confused job --

A Only when there is outstanding circumstances.

Q I see, all right.

Do you know if he was an oral request?

A I wouldn't know that, sir, no, sir.

Q Would you agree with me he is not a written request?

A I'll agree with you if you say you don't have one there.

Q Well, I photocopied everything they gave to me, and Mr. Fenwick said I had all the employer requests for that period.

A I doubt if you have, because there's several instances where you couldn't have had, like oral requests on the jobsite, or a man coming up with a written request on a wooden shingle.

Q By the way, I saw that when I was in your office, so you still had that one.

A Okay.

Q Okay. So whether he's an oral request or what, you don't know?

A I wouldn't know, no, sir.

Q Now, Mr. Fenwick sent out a gentleman by the name of Wagner to the Crown Construction Company on February 7th, and he indicates that he is a request.

[RT 1162]

Now, he doesn't appear on the written requests, and he does not appear on the sheets for February 5th. I recognize you can't speak for Mr. Fenwick, but aside from the possibility that was a telephone request or an oral request, would you have any other explanation for the possibility

that a man who is not on the list is going out to work when others are sitting on that list waiting for work?

A Like I say, there could be several possibilities, but to finger-point them, I couldn't do it, Mr. Hobart.

Q All right, several possibilities. Again, that's possibly an oral request?

A That's right.

Q What was the other possibility?

A Phone.

Q Phone request? Okay.

David King job -- or David King sent out to Crown Construction Company. Now, that was by you, and you wrote the word "Request" on there?

A I must have conformed to -- that day I felt like writing more, I guess.

Q I guess.

You don't recall how you got that request, by any chance, do you?

A No, sir, I don't even know the man that I wrote it for.

Q You don't know David King; is that right?

A That's right.

Q I suppose, presumably, if you

[RT 1163]*

don't know him, then* you had to have a request; is that the idea?

A Generally, if I don't know the man or his record, or anything like that, I had to be satisfied by the contractor orally or by phone.

Q So this is possibly an oral request.

Now, L. J. Spencer was dispatched to R. H. Daum Company on that Belmont High School job. That was a pretty good job, wasn't it?

A Belmont High?

Q Yes.

A I can't recall the job.

Q Did it last a while -- All right,

A Oh, now I remember Belmont. Yes, that was a big job.

Q You dispatched a fellow by the name of L. J. Spencer, and he's not on the lists, either. Any particular reason why you dispatched him?

A I wouldn't have the least idea.

Q Okay. If he wasn't a request of one sort or another --

A We are back to this again?

Q Yes, back to this again.

If he wasn't a request of some sort or another, you should have offered that job to Dick Hill instead of a man not on the list?

A Who says I didn't?

Q Did you?

A I can't remember.

[RT 1164]

Q Dick Hill says you didn't.

A Mr. Hill is perfectly entitled to his opinion.

Q Okay. So you don't know if this was an oral request?

A No, sir.

Q It is a possibility?

A Possibility.

Q Mr. Wilk dispatched a fellow by the name of Boyarski on February 12th to the P. J. Walker Company.

Now, Mr. Boyarski also was not on the list. Would you have any way of telling, inasmuch as it's not a request indicated on here, would you have any way of indicating why a man who is not on the list would get this dispatch, as compared to the hundred or two hundred men who are on the list?

A I can't remember any incident that would indicate that.

Q One thing you'd remember, and that was Mr. Wilk almost always wrote "Request" on his slips, didn't he?

A No, because it's not required. It's only for our own information.

Q I know, but it was his practice to write the word "Request" where he had a request? Wasn't that pretty much generally his policy?

A Well, evidently it isn't a practice, because he doesn't have it written here.

Q I know he doesn't have it written there. That's my point, Mr. Daley.

A So it indicates that it is not

[RT 1165]*

necessary to write* it.

Q As to why Mr. Boyarski would be dispatched when he's not on the list, then, you don't have any idea?

A No.

Q Possibly an oral request?

A I can't say. I don't know.

Q Now, let me ask you this, if Mr. Boyarski was not a request, an oral, written, telephone or on the job, is there any authority that allows a man who is not on the list to be dispatched ahead of people who are on the list?

A Only thing I can say is the work order was written, and it was written in good faith.

MR. HOBART: Well, I will move to strike that, your Honor, as not being responsive, and calling for a conclusion of the witness as to whether Mr. Wilk wrote this in good faith.

THE COURT: Well, I think I will let it stand.

Q BY MR. HOBART: How do you know Mr. Wilk wrote it in good faith? Did he tell you about this one?

A Knowing the gentleman as I do, I assume his character -- if you attacked his character, I have to defend it, because he was an honest man.

Q So you are just assuming this honest man wrote this dispatch in good faith?

A I have every right to assume that.

Q But it doesn't indicate "Request" on there, does it?

A No, sir.

Q Now, here's one for Eddie Praecon,

[RT 1166]*

dispatched on* 2-13. Mr. Wilk wrote "Request" on this one, but his name doesn't appear on the out-of-work requests list -- or on the request list for the month of February, I should say.

So you would assume by that, then, if it was a request, that it would have probably been a telephone request?

A Could have been any kind of -- telephone, oral, or any kind of request, because in our rounds every day we went to different jobs

and got oral requests, and it was the general procedure.

Q Didn't you tell them to put it in writing?

A Not necessarily, unless the man had not been a former employee.

Q You are saying if he had not been a former employee that he would have to put it in writing?

A We would generally request them to put it in writing under the 25-percent procedure.

In other words, a contractor was allowed to hire one out of every four men, even though he hadn't worked for him before.

Q By requesting them by name?

A By name, orally, or otherwise.

Q Suppose that he had worked for him before, the man?

A He would request him the same way, Mr. Hobart.

Q All right.

Now, Joe Petino was indicated as a request by Mr. Wilk on a dispatch of 2-14-68.

Now, these sheets of 2-12-1968, Mr.

[RT 1167]*

Petino appears* at page 9, line 1. Mr. Hill, by the way, is on page 4.

Now, Mr. Petino's name does not appear on the written requests, so I guess that that leaves only the possibility in your mind it may have been an oral request?

A Yes, I would assume so.

Q Stephen Krailow, dispatched by Wilk, again with the word "Request."

Do you notice that Mr. Wilk seems to write "Request" on all of these? Would that give you any indication to think that the one he didn't write "Request" on wasn't a request?

A No, not necessarily, Mr. Hobart. He could write "Request" on 99 of them, and miss one of them. This is humanly possible.

Q All right.

Well, Mr. Krailow was dispatched to the J & J Metals as a request. He's not on the list for the request documents for February, so again, the explanation is possibly he was an oral request; is that right?

A Could be anything.

Q Well, what else besides an oral request?

A Telephone.

Q Well, I call that oral, talking.

A Well, yes. It's a medium of exchange.

Q Well, Mr. Krailow is requested again two days later by R. J. Daum on the Belmont High job. He is at this time being dispatched out again by Mr. Wilk -- by the way, do you know if Mr. Krailow and Mr. Wilk were kind of friendly?

A I don't know, sir. Could be that

[RT 1168]*

the two jobs, * one he didn't get the required hours, and was entitled to the second job.

Q That's a possibility, but it indicates he is a request, doesn't it? So that would have nothing to do with the required hours, and Mr. Krailow does not appear on the out-of-work lists as a request by Daum, and so I guess, then, that the only reasonable explanation would be that it could very well have been an oral request?

A Couldn't this gentleman have gone out for the job and got himself hired by asking for the job, and they'd send him in, say, "Go ahead and get a job work order, we'll put you to work."

Q Right, but I thought we had covered that, where a guy may go out and take the form, go out and get it signed --

A No, you can't do that. That's against -- you know, you're not supposed to go out there soliciting your own job --

Q Now, Mr. Daley --

A -- but it's done all the time.

Q Everybody in Carpenters Local 25 does it all the time, don't they?

A Everybody in every book.

Q I do know there were several requests by Daum.

A Several -- should have been quite a few of them.

Q Well, I see his name -- here's another one on the 15th, they requested somebody by the name of Reed Smalley.

A I wouldn't know.

Q Anyway, they requested a fair

[RT 1169]*

number, but they * didn't request Mr. Krailow, according to the written one, so you indicate that

possibly that's another oral request.

Now, we've got you sending out a Mr. Abel, to Sette Noonan. Do you recall what kind of a job that was?

A Framer. They are framers.

Q That's on February 19th.

A Couldn't offer that job to as many men on the list.

Q All right. Well, then, why don't we just strike that.

A Even Mr. Hill wouldn't take a job like that.

Q Okay, let's disregard that one.

By the way, I notice on the same day Joe Straveris is sent out to Fellows Association as a request by Wilk, 2-19; and, by golly, here you are dispatching on 2-19, also.

A Like I say, this could happen; but not at the same time, sir. I would not allow two -- anybody to help me dispatch, because that's only confusing the issue; but by the time I got through, then it could be written by somebody else, or even me afterwards.

Q Okay. I want to take this Abel one out.

A Take both of them. Here.

Q No.

A Both same type of job.

Q Fellows Association?

A Right.

Q All right. What kind of job was the Fellows Association?

A Framing.

[CT 1170]

Q That was a framing job?

A Yes.

Q There are framers on the list, though, aren't there?

A Certainly there are framers on the list.

Q Well, Mr. Straveris was on page 12 of the list at line 2, and he's not indicated in here, in the written documents, as being a request.

A Being a framer, a framing job, I would assume -- I have had very, very -- considerable trouble filling framing jobs, because

this is the job for young men.

Q Okay.

A I could go through a hundred men that have framing down there, but they wouldn't take the job when they found out it was a house framer on an apartment house.

Q Well, just for the kicks of it, I see that on page 11, which is one page ahead of where Mr. Straveris was, people who have indicated framing, there's one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve people on that one page alone.

A Uh-huh.

Q So that would indicate there were framers ahead of Mr. Straveris?

A This indication you're talking about is commercial; is that right?

Q That's what it says.

A That's right.

Q Fellows Association is a commercial framing company, isn't it?

[RT 1171]

A This wouldn't be -- you can't classify it as commercial. It's house builders;

strictly framing.

Q Okay, I will defer to your judgment on that one, too, then.

Now, on February 19th you dispatched Henry Elwell to the Turner job, 3400 Wilshire as a request, and yet his name doesn't appear on the request forms.

A I don't even know the man.

Q Well, we've got a lot -- we have some Turner requests.

A Oh, definitely. This was a big job. Several hundred on there --

Q Is that right?

A -- I mean, carpenters.

Q So possibly that's an oral request, then?

A Could possibly be.

Q All right. I think we are getting toward the end here.

How about Andrew Yuhas? He was a friend of yours, wasn't he?

A I wouldn't know whether I had any friends in that local or not, after I was in there

for a few years.

Q Well, he was a friend of yours, or at least he claimed to be, wasn't he?

A I wouldn't say that. Very few friends I had there.

THE COURT: Well, I think before we go into the social relationship we'd better take our recess until this afternoon.

[RT 1172]

How do you feel, Mr. Hobart?

MR. HOBART: Well, your Honor, I feel absolutely horrible, but I frankly would prefer to try to finish. I know it would be an inconvenience to Mr. Daley to come back a second day, and I have been planning on just resting somewhere.

THE COURT: All right. Well, I will provide the cough drops, and things like that.

Well, we'll adjourn until 1:30, and the jury is given the customary admonition.

(The noon recess was taken until 1:30 p.m. of the same day.)

[RT 1173]

THE COURT: All right.

MR. HOBART: Thank you, your Honor.

EARL GEORGE DALEY,

resumed the stand and testified further as follows under the provisions of section 776 of the Evidence Code:

DIRECT EXAMINATION (Continued)

BY MR. HOBART:

Q Picking up where we left off, Mr. Daley, still in February of 1968, we have a dispatch on February 6, 1968 by you. That would have been off the February 5th dispatch sheets, wouldn't it?

A Yes, sir.

Q All right. Now, this dispatch to Mr. Jose Lopez, unless I'm mistaken, does not appear on those sheets, and it does not indicate on your dispatch referral that it was a request.

Do you have any independent recollection as to what the particular circumstances of that dispatch were?

A Well, Mr. Hobart, again we're coming back to this thing. May I try to explain again, try to make it clear?

Q Surely.

A Requests were usually made by the business representative doing the dispatching, but

[RT 1174]*

requests were not* necessarily the required thing, because I could be at the window and three or four men could come in there and be working for a company, and be on their payroll, and be transferring from one job to another, and would come in and request a work order before they went out on a new job, and I would automatically write these work orders.

Q That, then, would be one of the oral requests?

A That would be in-person request.

Q Well, when I say oral, I mean something less than written.

A Yes.

Q Telephone, person-to-person. You understand that when I say oral, I mean that could cover all of the possibilities?

A Naturally, it would have to be oral if they come up and requested a clearance, or a work order to go to work.

Q Okay, but on that dispatch you have in front of you, for Mr. Lopez, there is no indication that that was a request; in other words, you didn't write the word "Request" on it, did you?

A Like I say, it's not for me to say whether there was a request or wasn't --

Q Just answer --

A -- there could very well have been a request on it.

Q Just answer the question.

A Yes.

Q Did you write "Request" on there?

A No, I never wrote on this.

Q So that one, then, may have been

[RT 1175]*

one of the oral* requests; is that right?

A That, or otherwise. There could have been several differences.

Q Well, you keep saying other differences. Will you tell me what one of them would have been, other than an oral request.

A Well, just like I explained to you, Mr. Hobart, a minute ago, a man may walk into the hall right out of the area, and walk in there and say, "I'm working for Joe Blow, and I'm going on a job down here, and I want a work order." If he satisfied me he was working for them, and I was satisfied, I wrote him a work order.

Q What are you talking about, when a man comes in your office and says, "Hey, I'm working for Simpson Company. Give me a dispatch"?

A Yes, "Give me a dispatch, I'm going to work for Simpson Company," and he shows me a check stub. I have to honor that request.

Q That's an illegal dispatch, isn't it?

A No, sir.

Q How do you know he's --

A I have to take it for granted he's going to work because he's wanted by the company, if he can satisfy me.

Q So you are saying he is an oral request by the company?

A Well, it would be that way, if you put it that way, yes.

[RT 1176]

Q All right. But you don't bother to call the company to see whether or not this is an oral request?

A No, I don't bother to call the company, because if I did, I would be on that phone all day long, and not be able to do my job.

Q You say the men coming up to you all the time is such a frequent occurrence --

A I don't say all the time, just frequent enough to make it commonplace.

Q They give you no evidence of a request, no written request; they just say, "Well, I have been requested by the Simpson Company" --

A They don't say it that way.

Q What do they say?

A They say, "I'm working for Simpson down here on such-and-such a job, and I'm transferring over to such-and-such a job. Give me a work order." If they show me their card and they show me a check stub that they are working for the company, that satisfies me entirely.

Q You're only talking about the very limited occasion when a man transfers from one Simpson Company project to another Simpson project?

A This is not a rare instance.

Q That is what you're talking about?

A Yes.

Q You are not talking about a man coming in and saying, "I'm working for Simpson. I am transferring to Turner"?

[RT 1177]

A Well, of course not.

He could possibly do that, because he could terminate at Simpson and go to Turner.

Q Then he could go --

A Then I would assume Turner requested him when he sent in a work order.

Q In other words, if a man comes up to you and says, "Turner wants me on that job today," you just write him out a request?

A Not until he satisfies me that he qualifies.

Q What does he have to do to satisfy you?

A A check stub proving that he worked for the company in the past, or at the present time.

Q And if he doesn't hand you that information?

A Then I would say, "Go back to the job and get a written request."

Q All right.

Now, with respect to Lopez --

A I'm sorry, Lopez doesn't ring a bell with me.

Q As far as Mr. Lopez here is concerned, Mr. Lopez is not on the sheets, not indicated a request, but you say possibly he's an oral request or a transfer of some sort; is that right?

A True.

Q It's easy enough to check to see if there was a job transfer, to see what his job was before that?

A It would be simple enough to check the man's record, because if he worked for the

[RT 1178]*

company, the company* would definitely know of it, wouldn't they?

Q I would suspect the company would know, but how would you know?

A Being in the job I was, I had to make it my business to know quite a bit about everything I did there.

Q Mr. Daley, at the NLRB hearing that Mr. Hill filed against you and the local, do you recall that was over the issue of the William Simpson-Dinwiddie joint venture project? Do you recall that?

A Vaguely. Vaguely.

Q Do you recall that at that hearing you took, generally speaking, the position that telephone requests wouldn't be honored; that you had to have requests in writing before a man could be dispatched?

A I took that position?

A Yes.

A With who?

Q Do you recall taking that position?

A With who?

Q At the NLRB hearing.

A I mean, who did I take this position with?

Q When you were testifying at the NLRB hearing.

A That I took this position with the NLRB? What did they have to do with my dispatch?

Q Let me go back.

Do you recall that Mr. Hill filed charges against the local of the United Brotherhood for failing to honor a request of the William Simpson

[RT 1179] *

Company, Simpson-Dinwiddie? * Do you remember that?

A I vaguely remember this was something in the trial there, something like that, yes.

Q And do you remember testifying at the National Labor Relations Board?

A I remember testifying there, yes.

Q And didn't you take the position there that your policy, because you were -- what was your title, chief business agent, something like that?

A Business agent.

Q Didn't your card say chief business agent?

A Something in that order, but not chief. It said something about senior.

Q Senior?

A Senior. I was old enough to be a senior.

Q You were also the man who was in charge of things, pretty much, weren't you?

A Well, I wouldn't say that.

Q Okay.

Now, at the National Labor Relations Board hearing Mr. Hill claimed he was given an oral request by the Simpson-Dinwiddie Company. You remember that that was his claim, don't you?

A I don't know what Mr. Hill's claim was.

Q You have forgotten?

A I really don't.

Q You have forgotten, have you?

A Yes, because it never made too

[RT 1180] *

much impression on* me. Whatever that trial was, I didn't really take it serious at the time.

Q Well, do you recall that the National Labor Relations Board held against the union and in favor of Mr. Hill?

A Mr. Hobart, you wouldn't believe this, but I didn't learn that until about six or seven months ago.

Q Well, at this date I'd believe most anything.

Do you recall at the NLRB hearing, where you were testifying under oath, that had Mr. Hill been requested in writing he would have been dispatched, but it was your policy not to honor oral dispatches?

A My testimony, and what was the facts of it, if you're getting at it, was this: There was an agreement made with Mr. Simpson, William Simpson, at his own request, that he would ask for nobody by name, other than in writing. Whenever he wanted a man specifically, he would do so in writing, and sign his name to it.

Q And that was because of your policy --

A No, sir. I said Mr. Simpson, at his own request, asked for this sort of agreement.

Q Mr. Simpson took that position, did he not, because you had told him that you wanted all requests to be in writing, in order to conform to the rules of the business?

A Mr. Hobart, I was in no position to tell a huge company like Simpson or Dinwiddie, or anybody else, what they should do.

Q You couldn't tell them to -- in
[RT 1181]*

other words, they* could tell you how to run your dispatch procedure?

A No. We had these negotiating periods where we sat down and we worked out an agreement on certain things. This is the way -- you don't kill the goose that lays the golden egg. The contractor has a moral obligation out of me, as well as my members.

Q Was it ever the policy of Local 25 to dishonor oral telephone requests?

A What do you mean, "dishonor"?

Q In other words, not send a man out.

A In other words, refuse a telephone request?

Q Right.

A Was it the policy of Local 25?

Q Right, when you were in there.

A At no time was it a policy of Local 25 to refuse a request, a legitimate request, for a workman.

Q Whether or not it was oral?

A Whether it was oral or written. If it was legitimate, it was supposed to be honored, because the workman himself is entitled to this benefit.

Q Mr. Daley, if my memory serves me correctly, when Mr. Scott testified, he testified that it was the policy not to honor oral requests of Local 25.

A Because this was Mr. Simpson's idea, himself, to clarify the picture on the jobsite.

Q Well, forgetting Mr. Simpson, and forgetting that one project alone, Mr. Scott told us it was the policy, at least after he was in --

[RT 1182]*

that would have been in 1968 -- that* it was not the policy to honor oral requests. Are you saying that he initiated something new at that time?

A This could possibly be to protect himself. He was new on the job, and he didn't know everything.

But over the telephone, I knew a contractor by name, or the workman by request, and I either evaluated it as being genuine, or if I had any doubts, then I would seek the written request.

Q Let's finish up with the few we have remaining here.

Do you notice that on February 19, 1968, Andrew Yuhas was dispatched to Fellows Association as a request by Mr. Wilk?

Now, again, if you wish to take my word for it, there is no such written request for him.

A I'll take your word for it.

Q All right. Again, then, the only explanation for that that you can think of would be that it would be possibly an oral request?

A Again, let me explain -- try to, again -- just try to lightly, not to take up too much time at it. This could be, this could happen, could very easily happen, that Mr. Yuhas, whoever he is, could come into the hall and say, "I gotta go to work at 14th and Central for Fellows Association. They're starting a new job down there," and if it was me, rather than Mr. Wilk, I would say, "Did you work for him before? He'd say, "Yes." I'd say, "Got a check stub? Show me a check stub."

[RT 1183]

The check stub, I'd have to honor that evidence right now, because I didn't have the right to refuse this man and make him go all the way back way down there to get a written request, and come back to the hall, and run him around in that fashion. I had to honor the evidence he presented.

Q Mr. Daley, are you saying if the William Simpson Company is putting up a building that is likely to keep carpenters working for a year, and a man comes up to you, and he's not on the list, or he's not high on the list, and he says, "Hey, I've got a request here, and I've worked for Simpson before. Look at my slip." You mean to say you are just going to send him out in front of all of these men without checking to see if it's a bona fide request?

A I told you I'd check him.

Q By looking at his check stub?

A Yes, and I would send him out. Now, if that was illegitimate, and he wasn't requested by the company, that phone would ring off the hook in a few minutes, before he ever got there.

Q Why?

A Because the company would be indignant, sending a man they didn't order.

Q No, that isn't true, Mr. Daley. Suppose the company had sent you an order for 10 carpenters, and hasn't requested any of them --

A That is a request.

THE COURT: Hadn't requested them by name --

THE WITNESS: Right.

[RT 1184]

Q BY MR. HOBART: -- and some guy in the past has seen this good job come in, and in the past had worked for Simpson. You mean you would dispatch him, if all he did was show you, "Hey, I've been requested, and here is my check stub"?

A No, sir, not under those conditions you have pointed out.

Q Well, what would you do?

A Well, what I would do, I would actually verify the man's statement to my own satisfaction. Now, if the man is sitting --

Q You don't recall the Simpson Company?

A No.

-- if a man is sitting in the hall, he's not going to come up and tell me he's been requested, because I'm not going to believe such a story.

Q Why aren't you going to believe it?

A Because he's sitting in the hall out there.

Q First off, Mr. Daley, it is true, isn't it, that people are fully aware -- carpenters are fully aware of what the big jobs are, the status of those jobs, for the most part? Carpenters keep aware of that?

A I wouldn't be here to testify if I had done what you told me, because they'd corner me if I'd done anything like you say.

Q They did corner you in 1968, didn't they?

A Yes, sir, but it wasn't for that, sir.

Q Well, all right, whatever it was for.

[RT 1185]

Mr. Daley, I want to know what you would do. You have already told us you do not check with the company, you take the man's word, so if you got an order, telephone order for ten men who are not requested by name, and Mr. So-and-So, who is at the back of the list, or not even on it, says, "Hey, Blackie, I worked for Simpson Company before, and they have requested me on this job"; previously you have told us you'd dispatch him --

A I don't recall any instance of that sort.

Q Well, Mr. Daley, it seems to me that your testimony has been that you would verify

his request by checking to see if he had a stub showing that he had worked for them before.

A Under certain circumstances, and you ignore the circumstances.

Q Tell me the circumstances.

A The circumstances is when they came in from a jobsite wearing the helmet of the company, and they were dirty, and looked like they were working, and I hadn't seen them in the hall before, and they don't hang around there, then I have some reason to suspect they are workmen, working at a job.

Now, if they are legitimate, they come in and get a work order before going on the job.

Q Well, what would they have to get a work order for, if they are already working on the job?

A I said, when they transfer -- look, many times -- this is another instance where you

[RT 1186]*

could have a work order* without a request.

Many times I go on the jobsite and find eight, ten, twelve men working. I immediately get a little bit indignant that they didn't follow the rules, so I make each and every one of them go individually down to the hall and get a work order.

Q Well, is it true that under the Master Labor Agreement no carpenter can go to work on any job --

A True.

Q -- unless he presents the employer, supervisor, or somebody, with the employer's copy of this?

A This is true.

Now, when you go on a job and you find that the whole crew there, including the foreman and superintendent, have just come in from another district and are starting a new job, without clearing in, which happens quite frequently, and while I'm out in the field I check this particular job to see why they haven't come in and cleared, and I find all of these men, they give me the usual standby, "We're coming in the morning."

I said, "No, you're not coming in the morning, you're going now. You know the rules. Now is when you're going in to get your work order." So they go into the office and somebody there must dispatch these men, because you cannot tamper with their time; so either Jimmy Keen or the girl in the office are authorized to write this work order and initial it, so that they would go out on the jobsite and have the work order in their pocket, or in their possession.

[RT 1187]

So there wouldn't be no request there. There would be a request by me that they go in and get this work order.

Q You tell me that occurred in February 1968?

A No, sir, I can't put a specific instance on any month or day in 1966, '7 or '8, or anything.

Q Perhaps you could tell us one job where that occurred.

A I can't -- specifically, one particular job?

Q Yes.

A No, sir, because they didn't stick in my mind as an outstanding event.

Q Mr. Daley, I'm not sure that I understand your testimony correctly. Clarify me if I'm wrong.

Are you saying that on several occasions, many occasions, that you will find a crew working, ten carpenters or so, who are working on a job, members of the local, who are dispatched generally out of Local 25 --

A Now you're putting words in my mouth.

THE COURT: Let him complete the question.

Q BY MR. HOBART: Are you saying you find these circumstances, where the men are already out working on a job, and they have never been dispatched through the hiring hall procedures?

A Quite often.

Q Now, that's a direct violation of the rules, isn't it?

A I could put charges against them
[RT 1188]*

and have them* fined \$50, but I'm not there to penalize the members of the union. I'm there to help them, every one of them, no matter who they are.

Q Even Dick Hill?

A Mr. Hill, too.

Q As far as Mr. Yuhaz is concerned, then, you don't know the circumstances behind this request; it may be oral, or it may be one of those times when somebody was out working on some job?

A No, I couldn't give you any idea of how that occurred, under any condition.

Q All right.

There is a job for Lou Altman on February 19th. Now, Lou Altman was dispatched to Steelform as a request on that job -- I take it back, not as a request, just dispatched by Mr. Wilk; is that correct? -- not as a request.

A Yes. Now, this Steelform Construction Company is a construction company, incorporated -- Could I explain this a little bit more?

Q Help yourself, by all means.

A The term "Steelform Construction, Inc., I-n-c.," is the name of a worldwide company. They are all over the world, and they do different types of work, but this is their trade name.

Now, their trade name has been confused with the type of work they do, which isn't true. They do every type of work. There are steel forms, actually steel forms, that are prized by certain carpenters to get onto. In other words,

[RT 1189]

the Simpson job on Bunker Hill, the Bunker Hill Project, two-, three-year job, was all steel forms. No woodwork, all steel forms, and the steel forms were made in such a fashion that the first one on the ground floor was here, and it

went right up the hill, and they progressed up the hill -- up to the top of the building, and each form specifically stayed one above the other, and was lifted by cranes up into that position, and anchored by carpenters.

And this job was prized because of its length, and rather easy tenure to do. In other words, there was no heavy lifting by carpenters on that job, it was done by crane work.

Q I see.

A So that is a steel form; then the other steel form would be the pan, or the inverted biscuit made out of steel, and the objection to this type of work was that the men, the carpenters, had to handle these inverted tins, or iron biscuits, and locate them in their correct positions, and they had to carry them by hand to each one of them, and they were of such a type that each carpenter had to carry one, which made it rather heavy, but not unusually heavy.

And then there was the other type of work that this Steelform Company did, was entirely of wood; wood bracings, wood columns, wooden decks, wooden beams, all entirely of wood.

Q Now, Mr. Altman, when he got sent out to that job -- who sent him out, by the way?

A I think it's Joe Wilk's signature.

[RT 1190]*

It looks like* it.

Q Mr. Altman was a man he used quite often as a steward, wasn't he?

A Yes, I believe he was used as a steward. He was also a trustee of the union.

Q All right.

Now, Mr. Altman, on that dispatch of 2-19, was on the out-of-work sheets for the week of 2-12, page 9, line 3. See that?

A Yes, sir.

Q Now, is there any reason you can think of that would cause him to be dispatched to that job from page 9 on the out-of-work lists, without having been a request?

A I wouldn't attempt trying to give you any reason.

Q Well, if he was not a request, and just assume it for the moment, without agreeing to it, if he was not a request --

A Seems we have been over this before.

Q Yes, we have. Maybe you will answer it this time.

If he was not a request, would he have been dispatched pursuant to the rules?

A I can't imagine the situation.

Q You just can't conceive of it happening?

A Just never heard of that happening.

Q Never heard of somebody being dispatched illegally?

A Not illegally. Maybe by mistake, perhaps, but not illegally.

[RT 1191]

Q Well, Mr. Altman was one of your regular stewards, wasn't he?

A No, I wouldn't say that.

Q - You wouldn't?

A No. The only job I remember him on as a steward was the Belmont High School.

Q Mr. Daley, if you again will be so kind as to take my word for it, which I must admit you have been very kind in doing so far --

A Glad to.

Q -- we have taken the deposition of Mr. Altman -- By the way, Mr. Altman has died fairly recently, hasn't he?

A Yes, sir.

Q If you will take my word for it, and I'll read it later, but Mr. Altman testified under oath that he served as steward on the Crocker Bank job, Jefferson Bank job, Belmont High School job -- and Ahmanson Theater.

Now, if what he says is true, wouldn't that give you some indication he worked fairly regularly as one of your stewards?

A It would seem so.

Q Yes, it would.

A But I don't recall the instances that you're telling me about.

MR. GEFNER: Can we have the dates of those jobs?

MR. HOBART: Well, it is in his depo, but I'll give you the dates, though.

[RT 1192]

The Crocker-Citizens Bank job was a one-year job from '66 to '67.

I didn't jot down the date of the Jefferson Bank job, but I think it's in the deposition.

Belmont High School was a one-year job, then he went over to Ahmanson Center. I don't have the dates on here right now.

Q In addition, Mr. Altman once ran for political office on one of your slates, didn't he?

A It's quite probable. He was elected trustee.

Q Well, can you do us any better than it is quite possible? Yes or no, he was on your slate?

A Yes, I think he was at one time, yes.

Q All right.

Now, Mr. Daley, I have here Mr. Altman's health and welfare records, and you will see the job we are talking about. Steelform, in February of '68, shows up in his health and welfare forms for February of '68 for 40 hours. Do you see that?

A Um-hum.

Q You have to answer audibly.

A Yes, sir. Excuse me.

Q You will see in January '68 he had just finished working 172 hours for the R. J. Daum Company.

A That's Belmont High.

Q Right. He had been working for them right along; isn't that right?

A Right. When I left he was on that

[RT 1193]*

job. I don't* know anything about anything after that.

Q Well, of course, you didn't leave in February of 1968. You didn't leave until the end of June or July; isn't that right?

A Yes, July.

Q Now, inasmuch as it does not indicate that he was a request, and inasmuch as he had just come off a job where he had numerous hours, the R. J. Daum job, can you give us an explanation how a man who is on page 9 can be dispatched out to a job in front of eight pages of other carpenters?

A No, I can't give you anything, no explanation, although I'll say this, I don't think anybody done him a favor to send him out on a 40-hour job.

Q Well, maybe it was just filling in. Take a look over here. You will see he was back on the R. J. Daum job in February, where he worked an additional 47 hours in February. Do you see that?

A That's not very long. That's one week, isn't it?

Q Does it look like maybe somebody was doing him a favor keeping him working, just when one job slowed down a little bit, sending him over to something else?

A If that was the case, I think it would be more than a week.

Q Except the R. J. Daum was a good job, wasn't it?

A I would consider it so, yes.

Q After that one week at Steelform he went back to R. J. Daum, and he worked in February. In March he had 121 hours, and in April he had 155 hours at R. J. Daum. In May he

[RT 1194]

had 176 hours with R. J. Daum.

A Seemed like he was steadily employed by them.

Q That's right. Doesn't it seem rather odd he'd get a 40-hour fill-in job with Steelform --

A I wouldn't say --

Q -- from page 9?

A I wouldn't say it was odd. The man had a family, he had to work, and if he was laid off by R. J. Daum temporarily, he had to fill in somewhere.

Q Don't you think that the men had families who were on pages 1, 2, 3, 4, 5, 6, 7, 8, and they also had to seek employment?

A You'd better believe it.

Q Well, then, how do we justify Mr. Altman getting what appears to be favored treatment?

MR. GEFFNER: Your Honor, I object. Mr. Hobart is not only argumentative with the witness, but he is stating questions Mr. Daley has repeatedly answered he had no specifics as to each carpenter. He's been over and over each point.

THE COURT: Well, I think it is argumentative.

MR. HOBART: Your Honor, I would offer the health and welfare record of Mr. Altman

into evidence as plaintiff's next in order.

THE CLERK: 48.

THE COURT: All right, plaintiff's 48.

Q BY MR. HOBART: So then, as far as how or why he got that dispatch, you are just in no position to [RT 1195]*

just in no position to give any* speculation; is that right?

A That's what I think, I can't in any way say anything.

Q By the way, if I seem -- if you see me writing anything on the back of these that's improper -- I wrote "No opinion" on the back of that one. Is that fair?

A Yes.

Q Okay.

Now, going to Joseph Williams, dispatched by Mr. Wilk as a request to the R. J. Daum Company on February 20, he's not on the request list, and he's not on the sheets at all, the out-of-work sheets. Would you have any opinion as to how he got this dispatch?

A Still that same answer, I couldn't give you an opinion.

Q Okay.

Now, George Haynes, dispatched --

Your Honor, I think I feel like I'm going to to sneeze.

THE COURT: Any time you don't think you can carry on, let me know, and we will break.

MR. HOBART: I will be all right. Let me get a drink of water.

(Discussion off the record.)

Q BY MR. HOBART: Now, Mr. Haynes appears on the sheets of 2-19-68, page 9, line 5. Do you see that?

A Um-hum.

Q Here again we have a dispatch

[RT 1196]*

that's not indicated* on these sheets.

A And again I say it was not a rule of thumb.

Q Now, would you have any opinion as to how a man that's on page 9 would get a dispatch --

MR. GEFNER: Your Honor, I object. Mr. Daley has answered, by my calculations, 15 to 20 questions where he's testified that if it's not marked, it could have been an oral request of one nature or another, he had no personal recollection of the individual dispatches, and we are just going over exactly the same ground, and I object on that basis.

MR. HOBART: Your Honor, I have two more left on this month, and I think it is material because --

THE COURT: Well, all right, go ahead. I will overrule the objection.

Q BY MR. HOBART: Would you have any opinion on that, Mr. Daley?

A No opinion on that, but you do have a -- I think Mr. Wilk made a point of noting that the job was of two- or three-day duration.

Q Okay. Now, assume that a job is of a two- or three-day duration. Now is there any reason you can think of that a man high on the list might turn down that job?

A Well, yes. He would jeopardize himself if he got 18 or 20 hours, or something like that. He might have to go to the bottom of the list, or he might just want that job himself. There's quite a few of them wanted two-day jobs, and no more.

Q But assume we are talking about
[RT 1197]*

a man who you* referred to in general terms, a family man who has responsibilities, who wants steady employment. Are you saying that he would turn down a two- or three-day job because it would end up getting him on the bottom of the list?

A He had every right in the world to turn it down.

Q I see. And consequently, Mr. Haynes, who is on page 9, and there's only 12 pages on the list --

A Only?

Q Well, the point is, he wouldn't drop so far by taking that job, would he?

A Well, I don't think that has anything to do with it.

Q Well, if a man is on page 9 -- strike that -- if a man is on page 2 or 3, and he's offered a two- or three-day job and he wants steady employment, if I understand your testimony correctly, it would be unlikely that he would take this job?

A Very unlikely, because I felt it my obligation whenever I was there to inform the

carpenter of how long the job's duration would be, if there was an estimate on the job.

Every time I got a phone call or a clearance of a job, it was my duty to find out the length of the duration of the job as near as possible. So if I dispatched a man to a job, and it was a two-day job, he'd have every right to come in there and really violently object to such a treatment.

Q I see. Because he'd end up getting knocked off the list?

A No, I'd end up being knocked off
[RT 1198]*

my feet. That's* the way he would do with me, and he'd be right.

Q For giving him a two- or three-day job?

A Yes, sure, dispatched that way, and knocking the pins out from under him. I don't think I had any right to do that.

Q Is that the reason, then, that a job, say a two- or three-day job, would be taken by a man pretty far down on the list?

A No, quite a few of them preferred two- or three-day jobs for personal reasons.

Q Okay. Well, could we presume, Mr. Daley, that this job for two or three days Mr. Haynes took was offered to all the people who were there to have it offered to them?

A Can you say that it wasn't?

Q Mr. Daley, I'm only asking you a simple question.

A I don't know.

Q Can we presume that was offered to those people?

A We can presume it was offered to anybody in the hall at the time.

Q And that most of the people, then, until it got down to George Haynes on page 9 said no, they didn't want it? Isn't that an honest presumption?

A Well, I don't think we'd go through the list and waste our time and the men's time on what would be, obviously, two days' duration. It would be merely called out, "I have a two- or three-day job here. Who wants it?"

Q Who will take it, and if Mr. Haynes is the highest on the list, since he had priority --

[RT 1199]

A If there's two of them, the first one on the list, he got it.

Q So Mr. Hayes would take it?

A Yes.

Q Well, that certainly is an explanation why this job was dispatched from page 9.

A Well, thank you, Mr. Hobart.

Q So I'm going to write on here "Two- to three-day job taken by man low on the list."

Okay, the last one. We have one, again -- we have that same job. Mr. Ed Monty was dispatched to that job, again, not as a request, but it says "Two or three days" on there, doesn't it?

A Um-hum.

Q And Mr. Monty was on page 11, and I suppose the answer would follow, again, that the only persons who would be interested in that job, for the most part, would be men who are down below, and don't have far to drop if they are taken off the list?

A Or for their own reason.